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Contents

Federal Register

Vol. 68, No. 126

Tuesday, July 1, 2003

Agriculture Department
See Cooperative State Research, Education, and Extension Service
See Forest Service

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Human immunodeficiency virus (HIV)—
Technology Translation and Transfer of Effective HIV Prevention Behavioral Interventions, 39093–39098
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panels, 39098

Citizenship and Immigration Services Bureau
NOTICES
Temporary protected status program designations:
Montserrat, 39106–39109

Coast Guard
RULES
Maritime security:
Area maritime security, 39283–39292
Automatic Identification System; vessel carriage requirements, 39352–39368
Facility security, 39314–39338
General provisions, 39239–39284
Outer Continental Shelf facility security, 39337–39353
Vessels; security measures, 39291–39315
Ports and waterways safety:
Colorado River, Laughlin, NV; Avi Resort and Casino Fireworks Show; safety zone, 39017–39018
San Diego Bay, CA; North San Diego Bay July 4th Fireworks Show; safety zone, 39015–39017
Ulster Landing, NY; Hudson River Swim; safety zone, 39013–39015
NOTICES
Maritime security:
Automatic Identification System; carriage requirements expansion for U.S. waters, 39368–39371

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
RULES
Foreign futures and options transactions:
Application exemptions—
ASX Futures Exchanges Party Ltd., 39006–39009

Cooperative State Research, Education, and Extension Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39052–39054

Customs and Border Protection Bureau
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39109–39110

Defense Department
RULES
War against terrorism:
Admistrative procedures, 39396–39398
Chief defense counsel, detailed defense counsel, and civilian defense counsel; responsibilities, 39388–39391
Chief prosecutor, prosecutors, and assistant prosecutors; responsibilities, 39386–39389
Civilian defense counsel; qualification, 39390–39394
Crimes and elements of trials by military commission, 39380–39387
Military commission instructions, 39378–39381
Military commission personnel; reporting relationships, 39393–39395
Sentencing, 39394–39396
Trials by military commissions of certain non-United States citizens; procedures, 39373–39379

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Meetings:
Clean diesel engine implementation; workshop, 39018–39019
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Nomenclature changes; technical amendments, 39427–39441
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Texas, 39041–39042
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39071–39078
Grants and cooperative agreements; availability, etc.:
Children's Environmental Health Protection State Level Collaboration to Address Childhood Asthma Initiative (2003 FY), 39078–39084
Meetings:
Clean Air Compliance Analysis Advisory Council; teleconferences, 39084–39085
Environmental Laboratory Advisory Board, 39085
National Drinking Water Advisory Council, 39086
Reports and guidance documents; availability, etc.:
Evaluating the quality of scientific and technical information; summary of general assessment factors, 39086–39087
Water pollution control:
National Pollutant Discharge Elimination System—
Storm water discharges from construction activities; general permit, 39087–39091

Export-Import Bank
NOTICES
Meetings; Sunshine Act, 39091

Federal Aviation Administration
PROPOSED RULES
Class E airspace; correction, 39238

NOTICES
Airports:
Airfield pavement protection; proposed weight-based restrictions, 39176–39178
Committees; establishment, renewal, termination, etc.:
National Parks Overflight Advisory Group, 39178–39179
Passenger facility charges; applications, etc.:
Bismarck Municipal Airport, ND, 39179
General Mitchell International Airport, WI, 39179–39180

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Various States, 39021–39024
National Flood Insurance Program:
Insurance coverage and rates—
Community eligibility suspension, 39019–39021
PROPOSED RULES
Flood elevation determinations:
Various States, 39042–39048

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Gulfstream Natural Gas System, L.L.C., 39070–39071
High Island Offshore System, L.L.C., 39071
Williston Basin Interstate Pipeline Co., 39071

Federal Housing Finance Board
PROPOSED RULES
Federal home loan bank system:
Acquired member assets, core mission activities, and investments and advances; amendments, 39027–39038

Federal Railroad Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39180–39181
Exemption petitions, etc.:
Canadian Pacific Railway Co., 39181–39182
Farmrail System, Inc., 39182

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 39091
Permissible nonbanking activities, 39091–39092

Federal Transit Administration
NOTICES
Environmental statements; notice of intent:
Columbus, OH; north corridor transportation improvements, 39182–39185

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Interest rates:
Renegotiation Board and prompt payment rates, 39185
Surety companies acceptable on Federal bonds:
Annual list, 39185–39232

Forest Service
NOTICES
Meetings:
Resource Advisory Committees—
Modoc County, 39054

General Services Administration
NOTICES
Privacy Act:
Systems of records, 39092–39093

Health and Human Services Department
See Centers for Disease Control and Prevention
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service
See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Nurse Facility Loan Program, 39098–39099

Homeland Security Department
See Citizenship and Immigration Services Bureau
See Coast Guard
See Customs and Border Protection Bureau
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39110
Grants and cooperative agreements; availability, etc.:
Lead Hazard Reduction Demonstration Program (2003 FY), 39399–39425
Mortgage and loan insurance programs:
FHA multifamily mortgage insurance premiums; reduction, 39443–39445
Organization, functions, and authority delegations:
Office of Healthy Homes and Lead Hazard Control, Director, 39111
Reports and guidance documents; availability, etc.:
Alternative Fuel Vehicles Report FY 2002, 39111

Indian Affairs Bureau
PROPOSED RULES
No Child Left Behind Act; implementation:
Negotiated rulemaking committee—
Meetings, 39038–39039

Interior Department
See Indian Affairs Bureau

Internal Revenue Service
RULES
Income taxes:
Incidental expenses substantiation, 39011
Procedure and administration:
Returns required with respect to controlled foreign partnerships, 39012–39013
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39233–39236
Information collection activities; proposals, submissions, and approvals, 39236–39237

International Trade Administration
NOTICES
Antidumping:
Fresh Atlantic salmon from—
Chile, 39058–39059
Softwood lumber products from—
Canada, 39059–39066

Antidumping and countervailing duties:
Administrative review requests, 39055–39058
Export trade certificates of review, 39066

Labor Department
See Occupational Safety and Health Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Colombia Trade Union Training Program, 39111–39131
Serbian labor inspectorate; development for the 21st century, 39132–39152

National Aeronautics and Space Administration
NOTICES
Meetings:
Biological and Physical Research Advisory Committee, 39154

National Archives and Records Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39154–39156

National Institutes of Health
NOTICES
Meetings:
National Heart, Lung, and Blood Institute, 39099
National Institute of Child Health and Human Development, 39099–39101
National Institute of Diabetes and Digestive and Kidney Diseases, 39101
National Institute of Environmental Health Sciences, 39100
National Institute on Alcohol Abuse and Alcoholism, 39100
Scientific Review Center, 39101–39103

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Pacific halibut; Washington sport fisheries, 39024–39026
Ocean and coastal resource management:
Marine sanctuaries—
Florida Keys National Marine Sanctuary, FL; White Bank Dry Rocks Area; temporary no-entry zone, 39005–39006
PROPOSED RULES
Fishery conservation and management:
Atlantic coastal fisheries cooperative management—
Weakfish, 39048–39051
NOTICES
Endangered and threatened species:
Anadromous fish take—
Nez Perce Indian Tribe, OR; Imnaha River basin population of Snake River spring/summer chinook salmon, 39067–39068
Puget Sound Treaty Tribes and Washington Fish and Wildlife Department; Puget Sound chinook salmon, 39068–39070
Washington Fish and Wildlife Department; Middle Columbia River steelhead and Lower Columbia River chinook salmon, 39066–39067
Permits:
Scientific research, 39070

National Science Foundation
NOTICES
Meetings; Sunshine Act, 39156

Nuclear Regulatory Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39156–39157
Environmental statements; availability, etc.:
Merck & Company, Inc., 39157–39159
Meetings; Sunshine Act, 39159
Applications, hearings, determinations, etc.:
STP Nuclear Operating Co., 39157

Occupational Safety and Health Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39153–39154
Meetings:
Occupational Safety and Health Administration Federal Advisory Council, 39154

Postal Service
NOTICES
Reports and guidance documents;availability, etc.:
National Change of Address Linkage System product, 39159–39161

Public Debt Bureau
See Fiscal Service

Public Health Service
NOTICES
Reports and guidance documents; availability, etc.:
National Toxicology Program—
In vitro methods for assessing dermal corrosivity hazard potential of chemicals; comment request, 39104–39105

Railroad Retirement Board
RULES
Railroad Retirement Act:
Retirement age, 39009–39011

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Shares substitution applications—
Western-Southern Life Assurance Co., et al., 39163–39168
Regulatory responsibility allocation program:
National Association of Securities Dealers, Inc., et al., 39168–39169
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, 39169–39171
National Association of Securities Dealers, Inc., 39171–39172
Applications, hearings, determinations, etc.:
Public utility holding company filings, 39161–39163

Sentencing Commission, United States
See United States Sentencing Commission

Small Business Administration
NOTICES
Interest rates; quarterly determinations, 39175

State Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 39175

Art objects; importation for exhibition:
Hudson River School Visions: The Landscapes of Sanford R. Gifford, 39175–39176
The Crau at Ales: Peach Trees in Flower, 39176

Substance Abuse and Mental Health Services Administration
NOTICES
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 39105–39106

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Federal Transit Administration

Treasury Department
See Fiscal Service
See Internal Revenue Service
PROPOSED RULES
Financial institutions:
Customer Identification Program, 39039–39041

United States Sentencing Commission
NOTICES
Sentencing guidelines and policy statements for Federal courts
Priority policy issues for amendment cycle; comment request, 39173
Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003; implementation; comment request, 39173–39175

Veterans Affairs Department
NOTICES
Inventions, Government-owned; availability for licensing, 39237

Separate Parts In This Issue

Part II
Homeland Security Department, Coast Guard, 39239–39371

Part III
Defense Department, 39373–39398

Part IV
Housing and Urban Development Department, 39399–39425

Part V
Environmental Protection Agency, 39427–39441

Part VI
Housing and Urban Development Department, 39443–39445

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

12 CFR

Proposed Rules:

900 39027
932 39027
955 39027

14 CFR

Proposed Rules:

71 39238

15 CFR

922 39005

17 CFR

30 39006

20 CFR

218 39009
220 39009
225 39009

25 CFR

Proposed Rules:

Ch. I 39038

26 CFR

1 (2 documents) 39011, 39012
602 39012

31 CFR

Proposed Rules:

103 39039

32 CFR

9 39374
10 39379
11 39381
12 39387
13 39389
14 39391
15 39394
16 39395
17 39397

33 CFR

26 39353
101 39240
102 39240
103 39284
104 39292
105 39315
106 39338
160 39292
161 39353
164 39353
165 (5 documents) 39013, 39015, 39017, 39292, 39353

40 CFR

80 39018
180 (2 documents) 39428, 39435

Proposed Rules:

52 39041

44 CFR

64 39019
65 39021
67 39023

Proposed Rules:

67 (3 documents) 39042, 39044, 39046

46 CFR

2 39292
31 39292
71 39292
91 39292
115 39292
126 39292
176 39292

50 CFR

300 39024

Proposed Rules:

697 39048

Rules and Regulations

Federal Register

Vol. 68, No. 126

Tuesday, July 1, 2003

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

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

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 030613151–3151–01]

Florida Keys National Marine Sanctuary: Establishment of Temporary No-Entry Zone in the White Bank Dry Rocks Area

AGENCY: National Ocean Service (NOS), National Marine Sanctuary Program.

ACTION: Temporary rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) issues a temporary rule prohibiting all entry into two areas off the east side of Key Largo within federal waters of the Florida Keys National Marine Sanctuary. The combined areas are approximately 0.50 square miles in size. This temporary rule is necessary to prevent injury to, and destruction of, living coral from stress to diseased coral within the close areas, and to protect healthy coral from human-caused contamination.

DATES: Entry is prohibited effective June 26, 2003 until August 25, 2003.

FOR FURTHER INFORMATION CONTACT: Billy D. Causey, Superintendent, Florida Keys National Marine Sanctuary (FKNMS), Post Office Box 500368, Marathon, Florida 33050, (305) 743–2437.

SUPPLEMENTARY INFORMATION: NOAA is by this rule immediately prohibiting all entry into two areas off of Key Largo within federal waters of the Florida Keys National Marine Sanctuary (FKNMS). This action is taken in accordance with 15 CFR 922.165 of the FKNMS regulations (62 FR 32154, June 12, 1997). Section 922.165 provides that, where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource, any and all activities are subject to immediate temporary regulation, including prohibition, for up to 60 days, with one 60-day extension.

Background

This temporary rule is necessitated by the recent discovery of an outbreak of a rapidly-spreading infectious coral disease in parts of the Florida Keys that is killing staghorn coral (*Acropora cervicornis, A. prolifera*). Field observations describe disease signs that include defined areas of pale/bleached tissue, some areas of clear demarcation between live and dead tissue, and rapid tissue loss from colonies of staghorn coral.

This emergency action establishes no-entry zones to quarantine two currently infected coral patch areas that are popular with swimmers and snorkelers visiting the Sanctuary. It is possible that humans entering the waters of the affected areas could inadvertently carry infectious agents to healthy coral reef areas. Infected corals are also more subject to stress from human activities. This action is intended to limit the innocent spread of infectious agents to health coral and to reduce stress to corals within the infected areas.

This temporary rule closes two ares, each approximately 0.25 square miles in size, to all entry by humans and vessels except pursuant to a valid scientific research permit. The areas are part of White Bank Dry Rocks off of Key Largo and are referred to for the purpose of this rule as ''White Bank North Patch'' and ''White Bank South Patch''. The locations by coordinates of the closed areas are set forth below.This rule prohibits all activities that are currently allowed in the areas, including transiting and fishing. Vessels greater than 50 meters in length are already prohibited from entering the areas by regulations establishing Areas to be Avoided (15 CFR 922.164(a)).

Location and Boundary of No-Entry Zones

Effective immediately, all entry is prohibited within the closed areas of White Bank Dry Rocks off of Key Largo. The coordinates of the areas are:

White Bank North Patch

(1) 25 degrees 02.718 seconds N 80 degrees 22.261 seconds W;
(2) 25 degrees 02.780 seconds N 80 degrees 22.105 seconds W;
(3) 25 degrees 02.691 seconds N 80 degrees 22.000 seconds W;
(4) 25 degrees 02.567 seconds N 80 degrees 22.157 seconds W.

White Bank South Patch

(1) 25 degrees 02.414 seconds N 80 degrees 22.425 seconds W;
(2) 25 degrees 02.446 seconds N 80 degrees 22.267 seconds W;
(3) 25 degrees 02.314 seconds N 80 degrees 22.408 seconds W.

Penalties

Pursuant to 15 CFR 992.45, any violation of this rule is subject to a maximum civil penalty of $120,000 per violation per day. Furthermore, the NMSA and regulations authorize a proceeding in rem against any vessel used in violation of any such regulation.

Classification

Under 5 U.S.C. 553(b)(B), the Assistant Administrator of the National Ocean Service, NOAA, for good cause, finds that providing prior notice and public procedure thereon with respect to this rule is impracticable and contrary to the public interest. Recent evidence has come to light of an outbreak of infectious coral disease in areas of White Bank Dry Rocks near Key Largo. It is possible that humans entering the waters of the affected areas could inadvertently carry infectious agents to healthy coral reef areas. Infected corals are also more subject to stress from human activities. This action is intended to limit the innocent spread of infectious agents to healthy coral and to reduce stress to corals within the infected areas. As such, further damage to the infected corals as well as to healthy corals outside of the close areas would occur if the prohibition implemented by this rule is delayed to provide prior notice and opportunity for public comment.

Likewise, under 5 U.S.C. 553(d)(3), the Assistant Administrator of the National Ocean Service, NOAA, finds good cause to waive the 30-day delay in effective date for this rule. First, if the rule is delayed for 30 days, significant damage to the living coral resources could result. Further, 30 days are not necessary to give notification to visitors who might use the area in the future to move to other nearby sites. The U.S. Coast Guard will giveLocation immediate notification to vessels to stay

out of the no-entry zones. Notification will be made by the U.S. Coast Guard via notice to mariners, Sanctuary radio announcements, press releases, press conferences, and with assistance by the U.S. Coast Guard and Sanctuary staff on the water within the area. This rule is effective upon filing at the Office of the Federal Register.

Executive Order 12866

The Office of Management and Budget (OMB) has concurred that this rule is not significant within the meaning of section 3(f) of Executive Order 12866.

Executive Order 12612

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

Because this rule is not required to be issued with prior notice and opportunity for public comment by 5 U.S.C. 553 or by any other law, it is not subject to the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* As such, a regulatory flexibility analysis is not required, and none has been prepared.

Paperwork Reduction Act

This rule does not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

Dated: June 26, 2003.

Ted I. Lillestolen,

Captain/NOAA, Associate Deputy Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 03–16615 Filed 6–26–03; 4:24 am]

BILLING CODE 3510–NK–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is granting an exemption to firms designated by the ASX Futures Exchange Party Limited (''ASXF'') from the application of certain of the Commission's foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority consistent with conditions specified by the Commission, as set forth herein. This Order is issued pursuant to Commission Rule 30.10, which permits persons to file a petition with the Commission for exemption from the application of certain of the rules set forth in part 30 and authorizes the Commission to grant such an exemption if such action would not be otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Esq., Deputy Director, Susan A. Elliott, Esq., Staff Attorney, or Andrew V. Chapin, Esq., Staff Attorney, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under CFTC Rule 30.10 Exempting Firms Designated by the ASX Futures Exchange Party Limited (''ASXF'') From the Application of Certain of the Foreign Futures and Option Rules the Later of the Date of Publication of the Order Herein in the **Federal Register** or After Filing of Consents by Such Firms and the Regulatory or Self-Regulatory Organization, as Appropriate, to the Terms and Conditions of the Order Herein; and Granting Expanded Relief for Otherwise Permitted Transactions on all non-U.S. exchanges where ASXF Firms are authorized by Exchange Regulations to Conduct Futures Business for Customers, Subject to Certain Conditions.

Commission rules governing the offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade to customers located in the U.S. are contained in part 30 of the Commission's rules.[1] These rules include requirements for intermediaries with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, and sales practice and compliance procedures, that are generally comparable to those applicable to transactions on U.S. markets.

In formulating a regulatory program to govern the offer and sale of foreign futures and option products to customers located in the U.S., the Commission, among other things, considered the desirability of ameliorating the potential extraterritorial impact of such a program and avoiding duplicative regulation of firms engaged in international business. Based upon these considerations, the Commission determined to permit persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they were located to seek an exemption from certain of the requirements under part 30 of the Commission's rules based upon substituted compliance with the regulatory requirements of the foreign jurisdiction.

Appendix A to part 30, ''Interpretative Statement With Respect to the Commission's Exemptive Authority Under 30.10 of Its Rules'' (''Appendix A''), generally sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.[2] These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons that solicit and accept customer orders; (2) minimum financial requirements for those persons who accept customer funds; (3) protection of customer funds from misapplication; (4) recordkeeping and reporting requirements; (5) sales practice standards; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) information sharing arrangements between the Commission and the appropriate governmental and/or self-regulatory organization to ensure Commission access on an ''as needed'' basis to information essential to maintaining standards of customer and market protection within the U.S.

Moreover, the Commission specifically stated in adopting Rule 30.10 that no exemption of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) Submit to jurisdiction in the U.S. by designating an agent for service of process in the U.S. with respect to transactions subject to part 30 and filing a copy of the agency agreement with the National Futures Association (''NFA''); (2) agree to provide access to their books and records in the U.S. to Commission and Department of Justice representatives; and (3) notify NFA of the commencement of business in the U.S.[3]

[1] Commission rules referred to herein are found at 17 CFR Ch. I (2002).

[2] 52 FR 28990, 29001 (August 5, 1987).

[3] 52 FR 28980, 28981 and 29002.

By letter dated March 6, 2002, ASXF petitioned the Commission on behalf of its Participants (''firms''), located and doing business in Australia, for an exemption from the application of the Commission's part 30 rules to those firms. In support of its petition, ASXF states that granting such an exemption with respect to such firms that it has authorized to conduct foreign futures and options transactions on behalf of customers located in the U.S. would not be contrary to the public interest or to the purposes of the provisions from which the exemption is sought because such firms are subject to a regulatory framework comparable to that imposed by the Commodity Exchange Act (''Act'') and the rules thereunder.

Based upon a review of the petition, supporting materials filed by ASXF and the recommendation of the Commission's staff, the Commission has concluded that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A thereof, have been met and that compliance with applicable Australian law and ASXF rules may be substituted for compliance with those sections of the Act and rules thereunder more particularly set forth herein.

By this Order, the Commission hereby exempts, subject to specified conditions, those firms identified to the Commission by ASXF as eligible for the relief granted herein from:

—Registration with the Commission for firms and for firm representatives;

—The requirement in Commission Rule 30.6(a) and (d), 17 CFR 30.6(a) and (d), that firms provide customers located in the U.S. with the risk disclosure statements in Commission Rule 1.55(b), 17 CFR 1.55(b) and Commission Rule 33.7, 17 CFR 33.7, or as otherwise approved under Commission Rule 1.55(c), 17 CFR 1.55(c);

—The separate account requirement contained in Commission Rule 30.7, 17 CFR 30.7;

—Those sections of part 1 of the Commission's financial rules that apply to foreign futures and options sold in the U.S. as set forth in part 30; and

—Those sections of part 1 of the Commission's rules relating to books and records which apply to transactions subject to part 30,

based upon substituted compliance by such persons with the applicable statutes and regulations in effect in Australia.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing persons in Australia who would be exempted hereunder provides:

(1) A system of qualification or authorization of firms who deal in transactions subject to regulation under Part 30 that includes, for example, criteria and procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about authorized firms and persons who act on behalf of such firms;

(2) Financial requirements for firms including, without limitation, a requirement for a minimum level of working capital and daily mark-to-market settlement and/or accounting procedures;

(3) A system for the protection of customer assets that is designed to preclude the use of customer assets to satisfy house obligations and requires separate accounting for such assets;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information;

(5) Sales practice standards for authorized firms and persons acting on their behalf that include, for example, required disclosures to prospective customers and prohibitions on improper trading advice;

(6) Procedures to audit for compliance with, and to redress violations of, the customer protection and sales practice requirements referred to above, including, without limitation, an affirmative surveillance program designed to detect trading activities that take advantage of customers, and the existence of broad powers of investigation relating to sales practice abuses; and

(7) Mechanisms for sharing of information between the Commission, ASXF, and the Australian regulatory authorities on an ''as needed'' basis including, without limitation, confirmation data, data necessary to trace funds related to trading futures products subject to regulation in Australia, position data, and data on firms' standing to do business and financial condition.

This Order does not provide an exemption from any provision of the Act or rules thereunder not specified herein, such as the antifraud provision in Rule 30.9. Moreover, the relief granted is limited to brokerage activities undertaken on behalf of customers located in the U.S. with respect to transactions on or subject to the rules of ASXF for products that customers located in the U.S. may trade.[4] The relief does not extend to rules relating to trading, directly or indirectly, on U.S. exchanges. For example, a firm trading in U.S. markets for its own account would be subject to the Commission's large trader reporting requirements.[5] Similarly, if such a firm were carrying a position on a U.S. exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers.[6] The relief herein is inapplicable where the firm solicits or accepts orders from customers located in the U.S. for transactions on U.S. markets. In that case, the firm must comply with all applicable U.S. laws and regulations, including the requirement to register in the appropriate capacity.

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The regulatory or self-regulatory organization responsible for monitoring the compliance of such firms with the regulatory requirements described in the Rule 30.10 petition must represent in writing to the CFTC[7] that:

(a) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in Australia; such firm is engaged in business with customers in Australia as well as in the U.S.; and such firm and its principals and employees who engage in activities subject to part 30 would not be statutorily disqualified from registration under Section 8a(2) of the Act, 7 U.S.C. 12a(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm that would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.;

(c) All transactions with respect to customers resident in the U.S. will be made on or subject to the rules of ASXF and the Commission will receive prompt notice of all material changes to the relevant laws in Australia, any rules promulgated thereunder and ASXF rules;

(d) Customers located in the U.S. will be provided no less stringent regulatory protection than Australian customers under all relevant provisions of Australian law; and

(e) It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the part 30 rules, including sharing the information specified in Appendix A on an ''as needed'' basis and will use its best efforts to notify the Commission if it becomes aware of any information that in its judgment affects the financial or operational viability of a member firm doing business in the U.S. under the exemption granted by this Order.[8]

(2) Each firm seeking relief hereunder must represent in writing that it:

[4] *See, e.g.,* Sections 2(a)(1)(C) and (D) of the Act.

[5] *See, e.g.,* 17 CFR Part 18 (2002).

[6] *See, e.g.,* 17 CFR Parts 17 and 21 (2002).

[7] As described below, these representations are to be filed with NFA.

[8] ASIC represented to the Commission that the existing Memorandum of Understanding governing the sharing of information between ASIC and the Commission ''will extend to activities of the ASXF and its members.'' *See* Letter from Greg Tanzer, Executive Director, Regional Coordination & International Relations for ASXF, to Jane Kang Thorpe, Director for the Division of Clearing and Intermediary Oversight, dated May 16, 2003.

(a) Is located outside the U.S., its territories and possessions, and where applicable, has subsidiaries or affiliates domiciled in the U.S. with a related business (*e.g.,* banks and broker/dealer affiliates) along with a brief description of each subsidiary's or affiliate's identity and principal business in the U.S.;

(b) Consents to jurisdiction in the U.S. under the Act by filing a valid and binding appointment of an agent in the U.S. for service of process in accordance with the requirements set forth in Rule 30.5;

(c) Agrees to provide access to its books and records related to transactions under part 30 required to be maintained under the applicable statutes and regulations in effect in Australia upon the request of any representative of the Commission or U.S. Department of Justice at the place in the U.S. designated by such representative, within 72 hours, or such lesser period of time as specified by that representative as may be reasonable under the circumstances after notice of the request;

(d) Has no principal or employee who solicits or accepts orders from customers located in the U.S., who would be disqualified under Section 8a(2) of the Act, 7 U.S.C. 12a(2), from doing business in the U.S.;

(e) Consents to participate in any NFA arbitration program that offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under part 30, and consents to notify customers located in the U.S. of the availability of such a program;

(f) Undertakes to comply with the applicable provisions of Australian laws and ASXF rules that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted; and

(g) Maintains the greater of regulatory capital as required by ASXF or four percent of funds segregated on behalf of customers resident in the United States.

As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.[9] Among other duties, the Commission authorized NFA to receive requests for confirmation of rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate rule 30.10 Order and to grant exemptive relief from registration to qualifying firms. Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

Expanded Relief

As requested in the ASXF Petition,[10] this order also grants expanded relief to permit ASXF firms to trade on other non-U.S. exchanges where such firms are authorized by the Australian Corporations Law (CL) to conduct futures business for customers, contingent upon compliance with the prior provisions of this Order and with these conditions, to the extent they impose duties additional to those already specified:[11]

(1) ASXF will carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated ASXF members of U.S. customers for futures business on Recognized Futures Exchanges, as defined in section 9(b) of the CL,[12] other than a contract market designated as such pursuant to section 5 of the Act or a derivatives transaction execution facility registered as such pursuant to section 5a of the Act, to the same extent that it conducts such activities in regard to ASXF business;

(2) ASXF will cooperate with the Commission with respect to any inquiries concerning any activity that relates to expanded relief, including sharing the information specified in Appendix A to the part 30 rules on an ''as needed'' basis, on the same basis as set forth in the part 30 relief conditions of this Order; and

(3) Each ASXF member firm confirmed for rule 30.10 relief seeking to engage in activities that are the subject of this Order must agree to provide the books and records related to such transactions required to be maintained under the applicable statutes, regulations, and Exchange rules in effect in Australia, on the same basis as set forth in the part 30 relief conditions of this Order.

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange other than SFE and ASXF, whether by the ASXF firm directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, each ASXF firm must use the following procedures, consistent with the requirements applicable to Commission registered FCMs concerning the protection of customer funds under the provisions of Commission rule 30.7:[13]

(a) Comply with the terms and procedures of Commission rule 30.7, with the amount required to be segregated under ASXF rules and Australian laws to be substituted for the secured amount requirement as set forth in such paragraphs.

OR

(b)(1) Maintain in a separate account or accounts money, securities and property in an amount denominated as the foreign futures or foreign options secured amount in an amount sufficient to satisfy all of its current obligations to U.S. customers;

(2) Not commingle such money, securities and property with the money, securities or property of the member, or with any proprietary account of such member and not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the member or any proprietary account of the member;

(3) Deposit, if it wishes, together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph (b)(1) above money, securities or property held for or on behalf of non-U.S. customers of the member for the purpose of entering into foreign futures and options transactions. If the firm chooses to do so, the amount that must be deposited in such separate account or accounts must be no less than the greater of (i) the foreign futures and foreign options secured amount required by paragraph (b)(1) above plus the amount that would be required to be on deposit if all such customers (including non-U.S. customers) were subject to such requirement, or (ii) the foreign futures and foreign options secured amount required by paragraph (b)(1) above plus the amount required to be held in a separate account or accounts for or on behalf of such non-U.S. customers pursuant to any applicable law, rule, regulation or order, or any rule of any self-regulatory organization;

(4) Maintain the separate account or accounts referred to in paragraph (b)(1) above under an account name that clearly identifies them as such, with any of the following depositories:

(i) Another person registered with the Commission as an FCM or a firm exempted from FCM registration pursuant to CFTC rule 30.10;

(ii) The clearing organization of any foreign board of trade;

(iii) Any member and/or clearing member of such foreign board of trade; or

(iv) A bank or trust company which any of the depositories identified in (i)–(iii) above may use consistent with the applicable laws and rules of the jurisdiction in which the depository is located;

(5) Obtain and retain in its files for the period required by applicable law and Exchange rules an acknowledgment from a

[9] 62 FR 47792, 47793 (September 11, 1999).

[10] ASXF ''is essentially seeking the same level of relief as that afforded participants on the SFE Corporation Limited (''SFE'') (formerly Sydney Futures Exchange Limited) market. This is particularly relevant given many of the participants who would seek to solicit and accept orders from U.S. customers are participants on both the SFE and the ASXF market.'' ASXF Petition at p. 1. SFE was given expanded relief by Orders of April 13, 1993 (58 FR 19209), March 1, 1997 (62 FR 10445) and October 11, 2000 (65 FR 60560, 60562).

[11] These conditions are the same as those specified in the SFE original expanded relief order of April 13, 1993, 58 FR 19209.

[12] The term ''recognised futures exchange'' or ''RFE'' is defined in section 9(b) of the Corporations Law to mean a body corporate that conducts a futures market outside Australia. Schedule 11 of the CL contains the list of RFEs, which currently includes over 40 U.S. and non-U.S. futures exchanges. For an exchange to be included on the Schedule 11 list of RFEs, the relevant lead regulator must have an information sharing arrangement with ASIC and the applicable regulatory program must provide a comparative level of regulation, similar to the requirements for an exemption under Commission Rule 30.10.

[13] These are the conditions imposed in the 1997 SFE Expanded Relief Order of March 1, 1997 (62 FR 10445) as amended by the Order of October 11, 2000 (65 FR 60560, 60562).

depository identified in paragraph b(4)(i)–(iv) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provision of these regulations; and

(6) Provide each foreign futures and foreign options customer with one of the written disclosure statements in (A), (B), or (C) below:

(A) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally ''linked'' to a domestic exchange whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections that apply to domestic transactions, including the right to use alternative dispute resolution. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules that will apply to your particular transaction.

OR

(B) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property that has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation that may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

OR

(C) A comparable disclosure statement prescribed by ASXF.

This Order will become effective as to any designated ASXF firm the later of the date of publication of the Order in the **Federal Register** or the filing of the representations and consents set forth in paragraphs (2)(a)–(g), as verified by NFA. Upon filing of the notice required under paragraph (1)(b) as to any such firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and ASXF.

This Order is issued pursuant to Rule 30.10 based on the representations made and supporting material provided to the Commission and the recommendation of the staff, and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firms required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A, have been met. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive and expanded relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm, or otherwise restrict the exemptive or expanded relief granted in this Order, as appropriate, on its own motion.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

Issued in Washington, D.C. on June 25, 2003.

Jean A. Webb

Secretary of the Commission.

[FR Doc. 03–16516 Filed 6–30–03; 8:45 am]

BILLING CODE 6351–01–P

RAILROAD RETIREMENT BOARD

20 CFR Parts 218, 220, 225

RIN 3220–AB54

Retirement Age

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Board amends its regulations to update the references regarding age required for eligibility for an annuity and for the application of work deductions.

Full retirement age is no longer age 65, but instead ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later. The Board amends its regulations to replace obsolete references to ''age 65'' with a reference to ''retirement age'.

DATES: This rule is effective July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information specifically about this final rule, contact Michael C. Litt, General Attorney, Office of General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 106 of the Railroad Retirement Solvency Act of 1983, Public Law 98–76, amended the Railroad Retirement Act to replace references to ''age 65'' with ''retirement age (as defined in section 216(l) of the Social Security Act).'' Section 216(l) of the Social Security Act defines ''retirement age'' as follows: with respect to an individual who attains ''early retirement age'' before January 1, 2000, 65 years of age. ''Early retirement age'' is defined in the case of old-age, wife's or husband's insurance benefits, as age 62. With respect to individuals who attain early retirement age after December 31, 1999, the retirement age gradually increases.

The amended regulations replace references to ''age 65'' with the phrase ''retirement age'' in order to conform the regulations to the above-described amendment.

The Board published the proposed rule on June 17, 2002 (67 FR 41205), and invited comments by August 16, 2002. No comments were received. However, in preparing the rule for publication as a final rule, it was discovered that § 225.33(a)(1) of the Board's regulations also contains a reference to ''age 65'' that should be replaced by a reference to ''full retirement age.'' Accordingly, the proposed rule has been redrafted as a final rule to include amendment of that section.

Collection of Information Requirements

The amendments to these parts do not impose information collection and record keeping requirements. Consequently, the final rule need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

Regulatory Impact Statement

Prior to publication of this final rule, the Board submitted the rule to the Office of Management and Budget for review pursuant to Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of $100 million or more annually. This final rule is not a major rule in terms of the aggregate costs involved. Specifically, we have determined that this final rule is not a major rule with economically significant effects because it would not result in increases in total expenditures of $100 million or more per year.

The amendments made by this final rule are not significant. The amendments to parts 218, 220, and 225 update references regarding the ''age'' required for eligibility for an annuity and for the application of work deductions. Full retirement age is no longer age 65, but instead ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later. The Board amends its regulations to replace obsolete references to ''age 65'' with a reference to ''retirement age'.

Both the Regulatory Flexibility Act and the Unfunded Mandates Act of 1995 define ''agency'' by referencing the definition of ''agency'' contained in 5 U.S.C. 551(l). Section 551(l)(E) excludes from the term ''agency'' an agency that is composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

In accordance with the provisions of Executive Order 12866, this regulation has been reviewed by the Office of Management and Budget.

List of Subjects

20 CFR Part 218

Railroad retirement, reporting and recordkeeping requirements.

20 CFR Part 220

Railroad retirement.

20 CFR Part 225

Railroad retirement.

■ For the reasons stated in the preamble, the Railroad Retirement Board amends parts 218, 220, and 225, of chapter II of title 20 of the Code of Federal Regulations as follows:

PART 218—ANNUITY BEGINNING AND ENDING DATES

■ 1. The authority citation for part 218 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5).

§§ 218.9, 218.12, 218.13, 218.16, 218.17, 218.36, 218.40, 218.43, and 218.44 [Amended]

■ 2. In 20 CFR part 218, remove the words ''age 65'' wherever they appear and add in their place the words ''full retirement age'.

■ a. § 218.9(a)(2);

■ b. § 218.12(b)(2)(ii);

■ c. § 218.13(b)(1)(ii), and § 218.13(b)(2)(ii);

■ d. § 218.16(b)(2)(ii);

■ e. § 218.17(b)(2)(ii);

■ f. § 218.36(a)(3), and § 218.36(b);

■ g. § 218.40(c)(4);

■ h. § 218.43(b)(3), and § 218.43(c)(6);

■ i. § 218.44(b)(3), and § 218.44(c)(6).

PART 220—DETERMINING DISABILITY

■ 3. The authority citation for part 220 continues to read as follows:

Authority: 45 U.S.C. 231a; 45 U.S.C. 231f.

§ 220.161 [Amended]

■ 4. Amend § 220.161 by removing the words ''becomes 65 years old and the disability annuity is converted to an age annuity.'', and add in their place the words ''attains retirement age and the disability annuity is converted to a full age annuity.''

§ 220.176 [Amended]

■ 5. Amend § 220.176 by removing the words ''age 65,'' and adding in their place the words ''full retirement age''.

PART 225—PRIMARY INSURANCE AMOUNT DETERMINATIONS

■ 6. The authority citation for part 225 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5).

§ 225.2 [Amended]

■ 7. Amend § 225.2 by removing the wording ''216(l)'' from the definition of ''Base Years'', and adding in its place ''216(l)''.

§ 225.30 [Amended]

■ 8. Amend § 225.30(a) by removing the words ''age 65'', and adding in their place the words ''full retirement age''.

§ 225.33 [Amended]

■ 9. Amend § 225.33(a)(1) by removing the words ''Age 65 years old'', and adding in their place the words ''Full retirement age''.

■ 10. Amend § 225.34 by:

■ a. Removing the words ''age 65'' from paragraph (a)(1), and adding in their place the words ''full retirement age';

■ b. Revising paragraph (b)(3); and

■ c. Adding a new paragraph (b)(4).

■ The revision and addition read as follows:

§ 225.34 How the amount of the DRC is figured.

* * * * *

(b) * * *

(3) Employee attains age 65 in 1990 and before 2003.

(i) The rate of the DRC (one-fourth of one percent) is increased by one-twenty-fourth of one percent in each even year through 2002. Therefore, depending on when the employee attains age 65, the DRC percent will be as follows:

Year employee attains age 65	Delayed retirement (%) credit
1990	7/24 of 1%.
1991	Do.
1992	1/3 of 1%.
1993	Do.
1994	3/8 of 1%.
1995	Do.
1996	5/12 of 1%.
1997	Do.
1998	11/24 of 1%.
1999	Do.
2000	1/2 of 1%.
2001	Do.
2002	13/24 of 1%.

(ii) The delayed retirement credit equals the appropriate percent of the PIA times the number of months in which the employee is age 65 or older and for which credit is due.

(4) Employee attains full retirement age in 2003 or later. The rate of the DRC (one-fourth of one percent) is increased

by one-twenty-fourth of one percent in each even year through 2008. Therefore, depending on when the employee attains full retirement age, the DRC percent will be as follows:

Year employee attains full retirement age	Delayed retirement credit (%)
2003	13/24 of 1%.
2004	7/12 of 1%.
2005	Do.
2006	5/8 of 1%.
2007	Do.
2008 and later	2/3 of 1%.

* * * * *

Dated: June 25, 2003.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 03–16532 Filed 6–30–03; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9064]

RIN 1545–BB20

Substantiation of Incidental Expenses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains amendments to regulations relating to the requirement under section 274 of the Internal Revenue Code to substantiate business expenses for traveling while away from home. The regulations affect taxpayers who deduct expenditures for incidental expenses while traveling away from home. This document also contains amendments to regulations under section 62 to conform cross-references.

DATES: Effective Date: These regulations are effective July 2, 2003.

Applicability Date: For dates of applicability, *see* § 1.274–5(m).

FOR FURTHER INFORMATION CONTACT: Sameera Hasan (202) 622–4930 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On November 12, 2002, the IRS and Treasury published in the **Federal Register** (67 FR 68512) a temporary regulation (TD 9020) relating to the substantiation under section 274(d) of the Internal Revenue Code of incidental expenses incurred while traveling away from home. On the same day the IRS and Treasury published (67 FR 68539) a notice of proposed rulemaking (REG–141832–02) cross-referencing the temporary regulations.

Written comments from two commentators were received. A commentator initially requested a public hearing but subsequently withdrew the request. No public hearing was held. The comments generally related to implementation of these regulations in future guidance and will be further considered in connection with that guidance. After consideration of the comments, the proposed regulations are adopted by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these regulations do not require a collection of information and do not impose any new or different requirements on small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is Sameera Hasan, Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in the development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.62–2 is amended by removing the last three sentences of paragraph (e)(2) and adding two sentences in their place to read as follows:

§ 1.62–2 Reimbursements and other expense allowance arrangements.

* * * * *

(e) * * *

(2) * * * *See* § 1.274–5(g) and (j), which grant the Commissioner the authority to establish optional methods of substantiating certain expenses. Substantiation of the amount of a business expense in accordance with rules prescribed pursuant to the authority granted by § 1.274–5(g) or (j) will be treated as substantiation of the amount of such expense for purposes of this section.

* * * * *

■ **Par. 3.** Section 1.274–5 is amended by:

■ 1. Revising paragraph (j)(3).

■ 2. Adding a new sentence at the end of paragraph (m).

■ The revision and addition read as follows:

§ 1.274–5 Substantiation requirements.

* * * * *

(j) * * *

(3) *Incidental expenses while traveling away from home.* The Commissioner may establish a method under which a taxpayer may use a specified amount or amounts for incidental expenses paid or incurred while traveling away from home in lieu of substantiating the actual cost of incidental expenses. The taxpayer will not be relieved of the requirement to substantiate the actual cost of other travel expenses as well as the time, place, and business purpose of the travel.

* * * * *

(m) * * * However, paragraph (j)(3) of this section applies to expenses paid or incurred after September 30, 2002.

* * * * *

■ **Par. 4.** Section 1.274–5T is amended by revising paragraph (j) to read as follows:

§ 1.274–5T Substantiation requirements.

* * * * *

(j) [Reserved]. For further guidance, *see* § 1.274–5(j).

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 20, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–16599 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9065]

RIN 1545–BA77

Section 6038—Returns Required With Respect to Controlled Foreign Partnerships

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation and removal of temporary regulation.

SUMMARY: This document contains a final regulation relating to controlled foreign partnerships. This document requires that the United States partner must follow the filing requirements that are specified in the instructions for Form 8865.

DATES: *Effective Date:* This regulation is effective July 1, 2003.

Applicability Date: For dates of applicability, *see* § 1.6038–3(l).

FOR FURTHER INFORMATION CONTACT: Tasheaya L. Warren Ellison, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1617.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The burden of complying with the collection of information required to be reported on Form 8865 is reflected in the burden for Form 8865. The estimated number of respondents is 5000. The estimated burden for the 2001 Form 8865 per respondent is 89 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On December 23, 2002, final and temporary regulations (T.D. 9033) relating to the information reporting requirements for U.S. persons with interests in controlled foreign partnerships were published in the **Federal Register** (67 FR 78174). The temporary regulation addressed the filing requirements that must be followed for Form 8865 (Return of U.S. Persons With Respect To Certain Foreign Partnerships) if a U.S. person is required to file Form 8865 with respect to a foreign partnership that files Form 1065, U.S. Return of Partnership Income or Form 1065–B, U.S. Return for Electing Large Partnerships. On December 23, 2002, a notice of proposed rulemaking and public hearing (REG–124069–02) was also published in the **Federal Register** (67 FR 78202) with respect to the provisions of the temporary regulation. No written or electronic comments were received in response to the notice of proposed rulemaking. No requests to speak at the public hearing were received, and, accordingly, the hearing was canceled.

Explanation of Provisions

This Treasury decision adopts the language of the proposed regulation without change other than to clarify that Treas. Reg. § 1.6038–3(j) as in effect prior to T.D. 9033 (*see* 26 CFR part 1 revised April 1, 2002) is applicable to tax years of a foreign partnership ending before December 23, 2002. The temporary regulation is removed.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation. It is hereby certified that the collection of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the number of small entities that will be required to file the form is not substantial. The number of small entities with interests in foreign partnerships is not substantial; therefore, this regulation will not have a significant economic impact on a substantial number of small entities. Additionally, this regulation does not increase the reporting burden for U.S. persons with interests in controlled foreign partnerships. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. Comments are requested regarding the impact on small businesses.

Drafting Information

The principal author of this regulation is Tasheaya Warren Ellison, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.6038–3, paragraphs (j) and (l) are revised to read as follows:

§ 1.6038–3 Information returns required of certain United States persons with respect to controlled foreign partnerships (CFPs).

* * * * *

(j) *Overlap with section 6031.* A partner may be required to file Form 8865 under this section and the foreign partnership in which it is a partner may also be required to file a Form 1065 or Form 1065–B under section 6031(e) for the same partnership tax year. For cases where a United States person is a controlling fifty-percent partner or a controlling ten-percent partner with respect to a foreign partnership, and that foreign partnership completes and files Form 1065 or Form 1065–B, the instructions for Form 8865 will specify

the filing requirements that address this overlap in reporting obligations.

* * * * *

(1) *Effective date.* Except as otherwise provided, this section shall apply for tax years of a foreign partnership ending on or after December 31, 2000. For tax years of a foreign partnership ending before December 23, 2002, *see* § 1.6038–3(j) in effect prior to the amendments made by T.D. 9033 (see 26 CFR part 1 revised April 1, 2002).

§ 1.6038–3T [Removed]

■ **Par. 3.** Section 1.6038–3T is removed.

PART 602—OMB CONTROL NUMBERS UNDER PAPERWORK REDUCTION ACT

■ **Par. 4.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

■ **Par. 5.** In § 602.101, paragraph (b) is amended by removing the entry ''§ 1.6038–3T''. * * * 1545–1617'' from the table.

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: June 23, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–16600 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–03–053]

RIN 1625–AA97

Safety Zone; Hudson River Swim, Ulster Landing, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the annual Hudson Valley Triathlon swim located on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the affected waterway.

DATES: This rule is effective from 7:30 a.m. to 9 a.m. on Sunday, July 13, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–03–053 and are available for inspection or copying at Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, NY 10305 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. Morton, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the date the Applications for Approval of Marine Event were received, there was insufficient time to draft and publish an NPRM. An annual safety zone has been published for the Hudson Valley Triathlon swim on the Hudson River in 33 CFR 165.170 effective on the first Sunday after July 4th. The date for this year's event has been moved to the second Sunday after July 4th. The zone will only be enforced for 1½ hours; and recreational vessels can still transit to the east of the zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the swimmers and maritime public from the hazards associated with 400 swimmers competing in a confined area of the Hudson River.

Background and Purpose

The Coast Guard has received an application to hold a triathlon swim on the waters of the Hudson River. This rule establishes a safety zone in all waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points, (NAD 1983): 42°00′03.7″ N 073°56′43.1″ W; thence to 41°59′52.4″ N 073°56′33.9″ W; thence to 42°00′14.8″ N 073°56′25.0″ W; thence to 42°00′05.4″ N 073°56′41.9″ W; thence along the shoreline to the point of origin. The safety zone will be enforced from 7:30 a.m. until 9 a.m. on Sunday, July 13, 2003. The safety zone prevents vessels from transiting a portion of the Hudson River and Barrytown Reach and is needed to protect swimmers and boaters from the hazards associated with 400 swimmers competing in a confined area of the Hudson River. Recreational vessels can still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from piers in the vicinity of the zone. Commercial vessels will be precluded from transiting the area because the safety zone encompasses about 800 yards of Barrytown Reach and there is no viable alternative route. Public notifications will be made prior to the event via the Local Notice to Mariners, Marine Information and electronic mail Broadcasts, and on the Internet at *http://www.harborops.com.*

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all swimmers and vessels.

Discussion of Rule

This rule establishes a temporary safety zone for the Hudson Valley Triathlon swim. The safety zone will be in effect for 1½ hours. Recreational vessels can still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from piers in the vicinity of the zone. Commercial vessels will be precluded from transiting the area because the safety zone encompasses about 800 yards of Barrytown Reach and there is no viable alternative route.

Regulatory Evaluation

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

This finding is based on: the minimal time that vessels will be restricted from the zone; it is an annual, local event; recreational vessels may still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone; the zone is only in effect for 1½ hours; the event occurs early on a Sunday morning, which historically is a time when there is less commercial traffic transiting the area; and the event has been held for 6 years in succession and is therefore anticipated annually. The Coast Guard has received no written comments or complaints regarding the event being held in this location. Advance notifications will be made to the local maritime community by the

Local Notice to Mariners, marine information and electronic mail broadcasts; and on the Internet at *http://www.harborops.com.*

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Hudson River during the time this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the minimal time that vessels will be restricted from the zone; it is an annual, local event; recreational vessels may still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone; the zone is only in effect for 1½ hours; the event occurs early on a Sunday morning, which historically is a time when there is less commercial traffic transiting the area; and the event has been held for 6 years in succession and is therefore anticipated annually. The Coast Guard has received no written comments or complaints regarding the event being held in this location. We will ensure wide dissemination of maritime advisories to users of the affected waterways via Local Notice to Mariners, marine information and electronic mail broadcasts, and on the Internet at *http://www.harborops.com.*

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this temporary rule so that we can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. From 7:30 a.m. to 9 a.m. on July 13, 2003, add temporary § 165.T01–053 to read as follows:

§ 165.T01–053 Safety Zone; Hudson River Swim, Ulster Landing, NY.

(a) *Regulated area.* The following area is a safety zone: All waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points (NAD 1983): 42°00′03.7″ N 073°56′43.1″ W; thence to 41°59′52.4″ N 073°56′33.9″ W; thence to 42°00′14.8″ N 073°56′25.0″ W; thence to 42°00′05.4″ N 073°56′41.9″ W; thence along the shoreline to the point of origin.

(b) *Enforcement period.* This section will be enforced from 7:30 a.m. to 9 a.m. on Sunday, July 13, 2003.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

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

Dated: June 20, 2003.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 03–16550 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Diego 03–015]

RIN 1625–AA00

Safety Zone; North San Diego Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones on the navigable waters of San Diego Bay in support of the North San Diego Bay July 4th Fireworks Show. These temporary safety zones are necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within these safety zones unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 8:30 p.m. until 10 p.m. (PDT) on July 4, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego-03–015] and are available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai USCG, c/o U.S Coast Guard Captain of the Port, telephone (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. The precise location of the event necessitating promulgation of these safety zones and other logistical details surrounding the event were not finalized until a date fewer than 30 days prior to the event. Delaying the effective date of this rule would be contrary to the public interest because doing such would prevent the Coast Guard from maintaining the safety of the participants of the event and users of the waterway.

Background and Purpose

The Coast Guard is establishing three (3) temporary safety zones on the navigable waters of San Diego Bay in support of the North San Diego Bay July 4th Fireworks Show. These temporary safety zones are necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within these safety zones unless authorized by the Captain of the Port, or his designated representative.

Discussion of Rule

These safety zones are necessary for the North San Diego Bay July 4th Fireworks Show, which will take place on July 4, 2003, starting at 8:30 p.m. (PST) and ending at 10 p.m. (PST). The event involves three barges, which will be used as platforms for the launching of fireworks.

The limits of these temporary safety zones are as follows: 300 yards around the following points: 32°42′50″ N, 117°13′12″ W (Shelter Island), 32°43′20″ N, 117°12′14″ W (Harbor Island), and 32°43′10″ N, 117°10′46″ W (North Embarcadero).

These temporary safety zones are necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within these safety zones unless authorized by the Captain of the Port, or his designated representative.

Regulatory Evaluation

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

Due to the temporary safety zone's short duration of one and one-half (1½) hours for just one day, the Coast Guard expects the economic impact of this rule to be so minimal that full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

Small Entities

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

For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of size. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of North San

Diego Bay from 8:30 p.m. to 10 p.m. on July 4, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The temporary safety zone's short duration of one and one-half (1½) hours on one day, the late hour when commercial traffic is low, and the ability of the COTP to authorize entry if necessary.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lt. Commander Rick Sorrell, U.S. Coast Guard Marine Safety Office San Diego at (619) 683–6495.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are required for this rule and a copy can be obtained from the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add § 165.T11–033 to read as follows:

§ 165.T11–033 Safety Zones: North San Diego Bay, CA.

(a) *Locations.* Temporary safety zones are established that encompass all waters within 300 yards of the following points:

(1) 32°42′50″ N, 117°13′12″ W (Shelter Island).

(2) 32°43′20″ N, 117°12′14″ W (Harbor Island).

(3) 32°43′10″ N, 117°′46″ W (North Embarcadero).

(b) *Effective period.* This section will be enforced from 8:30 p.m. until 10 p.m. (PDT) on July 4, 2003. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander

may be contacted via VHF—FM Channel 16.

Dated: June 20, 2003.

Stephen P. Metruck,

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

[FR Doc. 03–16551 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Diego 03–022]

RIN 1625–AA00

Safety Zone; Colorado River, Laughlin, NV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Laughlin, Nevada in support of the Avi Resort and Casino fireworks show. This temporary safety zone is necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within these safety zones unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 8:30 p.m. until 10 p.m. (PDT) on July 5, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 03–022] and are available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai, USCG, c/o U.S Coast Guard Captain of the Port, telephone (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. The precise location of the event necessitating promulgation of this safety zone and other logistical details surrounding the event were not finalized until a date fewer than 30 days prior to the event. Delaying the effective date of this rule would be contrary to the public interest because doing such would prevent the Coast Guard from maintaining the safety of the participants of the event and users of the waterway.

Background and Purpose

The Coast Guard is establishing a temporary safety zone on the navigable waters of the Colorado River in Laughlin, Nevada in support of the Avi Resort and Casino fireworks show. The fireworks will be launched from an area on land, however, the fallout area will be over a section of the Colorado River and a safety zone on this section of the river is necessary to provide for the safety of the users of this waterway.

Discussion of Rule

The Coast Guard proposes to establish this temporary rule to provide for the safety of the participants, spectators and other users of the waterways. The temporary safety zone is specifically defined as that portion of the Colorado River 1000 yards north of Veterans Bridge. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Regulatory Evaluation

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

Due to the temporary safety zone's short duration of less than 2 hours, its limited scope of implementation, and because vessels will have an opportunity to request authorization to transit, the Coast Guard expects the economic impact of this rule to be so minimal that full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of the DHS is unnecessary.

Small Entities

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

For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of size. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Colorado River from 8:30 p.m. to 10 p.m. on July 4, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The temporary safety zone's short duration of one and one-half (½) hours on one day, the late hour when traffic is low, and the ability of the COTP to authorize entry if necessary.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Rick Sorrell, U.S. Coast Guard Marine Safety Office San Diego at (619) 683–6495.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are required for this rule and can be viewed in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add a new § 165.T11–041 to read as follows:

§ 165.T11–041 Safety Zone: Colorado River, Laughlin, Nevada.

(a) *Location.* The safety zone includes that portion of the Colorado River extending 1000 yards north of Veterans Bridge.

(b) *Effective period.* This safety zone will be in effect from 8:30 p.m. until 10 p.m. (PDT) on July 5, 2003. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the designated representative. The designated representative may be contacted via VHF-FM channel 16. The designated representative for this event will be Frank Shaves of the Nevada Division of Wildlife.

Dated: June 20, 2003.

Stephen P. Metruck,

Commander, Coast Guard, Captain of the Port, San Diego.

[FR Doc. 03–16552 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–7520–5]

Clean Diesel Engine Implementation Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) will be holding a Clean Diesel Engine Implementation Workshop August 6 and 7 in Chicago, IL. The 2007 highway diesel fuel and engine program (66 FR 5002, January 18, 2001) establishes new standards beginning in 2007 for heavy-duty diesel vehicles and a maximum sulfur content of 15 ppm for highway diesel fuel used in those vehicles beginning in 2006. The purpose of this workshop is to assist regulated entities and other stakeholders, including engine manufacturers, truck manufacturers, truck owners and truck operators, with program implementation and compliance. The workshop is being sponsored by the Engine Manufacturers Association (EMA), the American Trucking Associations (ATA), the Manufactures of Emission Control Association (MECA), the Truck

Manufacturers Association (TMA), the Truck Renting and Leasing Association (TRALA) and the California Air Resources Board (CARB). EPA will present a summary of the 2007 highway diesel engine and fuel program. The workshop will also include a series of industry panel sessions on developing solutions to program implementation challenges. An agenda for the workshop will be available in early July on the clean diesel web page: *http://www.epa.gov/otaq/diesel.htm.* If you plan to attend the workshop, please register at *http://www.truckline.com/epadieselconference/.*

DATES: The workshop will be held on Wednesday, August 6, 2003, and Thursday, August 7, 2003.

ADDRESSES: The workshop will be held at The Hyatt Regency O'Hare Hotel, 9300 W. Bryn Mawr Avenue, Rosemont, Illinois 60018, phone: (847) 696–1234, fax: (847) 698–0139, *http://ohare.hyatt.com.*

FOR FURTHER INFORMATION CONTACT: Ms. Julia MacAllister, U.S. EPA, National Vehicle and Fuels Emission Laboratory, Assessment and Standards Division, 2000 Traverwood, Ann Arbor, MI 48105; phone: (734) 214–4131, fax: (734) 214–4816, e-mail: *macallister.julia@epa.gov.*

Dated: June 24, 2003.

Michael R. Haley,

Acting Director, Office of Transportation and Air Quality.

[FR Doc. 03–16587 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7811]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Mike Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

Section 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and Local Jurisdiction	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective Map Date	Date Certain Federal assistance no longer available in special flood hazard areas
Region I				
Maine: Beals, Town of, Washington County	230133	September 16, 1975, Emerg.; May 15, 1991, Reg.; July 2, 2003, Susp	July 2, 2003	July 2, 2003.
Region II				
New Jersey: Estell Manor, City of, Atlantic County	340573	March 14, 1975, Emerg.; November 3, 1978, Reg.; July 2, 2003, Susp	.....do	Do.
Region III				
Pennsylvania: Salisbury, Township of, Lehigh County	420591	March 16, 1973, Emerg.; January 3, 1979, Reg.; July 2, 2003, Susp	.....do	Do.
Region V				
Wisconsin: Markesan, City of, Green Lake County	550169	June 9, 1975, Emerg.; July 16, 2003, Reg.; July 16, 2003, Susp	.....do	Do.
Region III				
Virginia: New Market, Town of, Shenandoah County	510227	August 11, 1975, Emerg.; October 23, 1981, Reg.; July 16, 2003, Susp	July 16, 2003	July 16, 2003.
Shenandoah County, Unincorporated Areas	510147	March 30, 1973, Emerg.; August 1, 1978, Reg.; July 16, 2003, Susp	.....do	Do.
Strasburg, Town of, Shenandoah County	510149	October 9, 1973, Emerg.; December 26, 1978, Reg.; July 16, 2003, Susp	.....do	Do.
Toms Brook, Town of, Shenandoah County	510233	June 12, 1975, Emerg.; September 10, 1984, Reg.; July 16, 2003, Susp	.....do	Do.
Woodstock, Town of, Shenandoah County	510150	October 18, 1974, Emerg.; August 3, 1984, Reg.; July 16, 2003, Susp	.....do	Do.
Region IV				
North Carolina: Atlantic Beach, Town of, Carteret County	370044	July 14, 1972, Emerg.; March 15, 1977, Reg.; July 16, 2003, Susp	.....do	Do.
Beaufort, Town of, Carteret County	375346	December 3, 1971, Emerg.; December 1, 1972, Reg.; July 16, 2003, Susp	.....do	Do.
Bogue, Town of, Carteret County	370491	May 5, 1997, Reg.; July 16, 2003, Susp	.....do	Do.
Cape Carteret, Town of, Carteret County	370046	December 12, 1973, Emerg.; April 1, 1977, Reg.; July 16, 2003, Susp	.....do	Do.
Carteret County, Unincorporated Areas	370043	November 19, 1971, Emerg.; May 15, 1980, Reg.; July 16, 2003, Susp	.....do	Do.
Cedar Point, Town of, Carteret County	370465	July 26, 1989, Emerg.; July 26, 1989, Reg.; July 16, 2003, Susp	.....do	Do.
Emerald Isle, Town of, Carteret County	370047	June 29, 1973, Emerg.; April 1, 1977, Reg.; July 16, 2003, Susp	.....do	Do.
Indian Beach, Town of, Carteret County	370433	January 13, 1983, Emerg.; March 4, 1985, Reg.; July 16, 2003, Susp	.....do	Do.
Morehead City, Town of, Carteret County	370048	April 13, 1973, Emerg.; February 16, 1977, Reg.; July 16, 2003, Susp	.....do	Do.
Newport, Town of, Carteret County	370049	January 17, 1974, Emerg.; May 15, 1978, Reg.; July 16, 2003, Susp	.....do	Do.
Pine Knoll Shores, Town of, Carteret County	370267	October 25, 1973, Emerg.; September 28, 1979, Reg.; July 16, 2003, Susp	.....do	Do.

*...do ...= ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 25, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16544 Filed 6–30–03; 8:45 am]

BILLING CODE 6718–05–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–P–7624]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Division Director of the Emergency Preparedness and Response Directorate reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
California: Alameda (Case No. 02–09–542P).	City of Hayward	February 21, 2003, February 28, 2003, *The Daily Review*.	The Honorable Roberta Cooper, Mayor, City of Hayward, 777 B Street, Hayward, California 94541.	February 10, 2003.	065033
Illinois: Will (Case No. 02–05–3078P).	Village of Bolingbrook.	April 10, 2003, April 17, 2003, *The Bolingbrook Sun*.	The Honorable Roger Claar, Mayor, Village of Bolingbrook, 375 West Briarcliff Road, Bolingbrook, Illinois 60440.	July 17, 2003	170812
Iowa: Johnson (Case No. 02–07–356P).	City of Iowa City	April 11, 2003, April 18, 2003, *Iowa City Press-Citizen*.	The Honorable Ernest W. Lehman, Mayor, City of Iowa City, 410 East Washington Street, Iowa City, Iowa 52240.	July 18, 2003	190171

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Kansas: Crawford (Case No. 02–07–785P).	City of Pittsburg	February 21, 2003, February 28, 2003, *The Morning Sun*.	The Honorable Allen Gill, Mayor, City of Pittsburg, 201 West 4th Street, Pittsburg, Kansas 66762.	February 10, 2003.	200072
Michigan: Macomb (Case No. 02–05–1637P).	Township of Macomb.	March 20, 2003, March 27, 2003, *The Macomb Daily*.	Mr. John D. Brennan, Township Supervisor, 54111 Broughton Road, Macomb, Michigan 48042.	June 26, 2003	260445
Ohio: Montgomery (Case No. 02–05–3230P).	City of Vandalia	March 5, 2003, March 12, 2003, *Dayton Daily News*.	The Honorable Bill Loy, Mayor, City of Vandalia, 333 James Bohanon Drive, Vandalia, Ohio 45377.	February 21, 2003.	390418
Oklahoma: Oklahoma, Canadian, Cleveland, McClain, Pottawatomie (Case No. 03–06–693P).	City of Oklahoma City.	March 20, 2003, March 27, 2003, *The Daily Oklahoman*.	The Honorable Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, 3rd Floor, Oklahoma City, Oklahoma 73102.	February 25, 2003.	405378
Oklahoma: Oklahoma, Canadian, Cleveland, McClain, Pottawatomie (Case No. 03–06–696P).	City of Oklahoma City.	March 20, 2003, March 27, 2003, *The Daily Oklahoman*.	The Honorable Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, 3rd Floor, Oklahoma City, Oklahoma 73102.	February 26, 2003.	405378
Texas: Collin (Case No. 03–06–436P).	City of Allen	April 3, 2003, April 10, 2003, *The Allen American*.	The Honorable Steve Terrell, Mayor, City of Allen, One Allen Civic Plaza, Allen, Texas 75013.	March 19, 2003.	480131
Texas: Dallas (Case No. 02–06–1259P).	City of Dallas	April 3, 2003, April 10, 2003, *Dallas Morning News*.	The Honorable Laura Miller, Mayor, City of Dallas, 1500 Marilla Street, City Hall, Dallas, Texas 75201.	March 13, 2003.	480171
Texas: Dallas (Case No. 02–06–2308P).	City of Farmers Branch.	February 21, 2003, February 28, 2003, *Northwest Morning News*.	The Honorable Bob Phelps, Mayor, City of Farmers Branch, P.O. Box 819010, Farmers Branch, Texas 75234.	February 7, 2003.	480174
Texas: Dallas (Case No. 02–06–1259P).	City of Garland	April 3, 2003, April 10, 2003, *Garland Morning News*.	The Honorable Bob Day, Mayor, City of Garland, P.O. Box 469002, Garland, Texas 75046.	March 13, 2003.	485471
Texas: Tarrant (Case No. 02–06–2049P).	City of Hurst	February 21, 2003, February 28, 2003, *The Star Telegram*.	The Honorable William D. Souder, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, Texas 76054.	January 31, 2003.	480601
Texas: Williamson (Case No. 02–06–938P).	City of Leander	April 16, 2003, April 23, 2003, *Hill Country News*.	The Honorable Larry Barnett, Mayor, City of Leander, P.O. Box 319, Leander, TX 78646.	March 13, 2003.	481536
Texas: Dallas (Case No. 02–06–1259P).	City of Mesquite	April 3, 2003, April 10, 2003, *Mesquite Morning News*.	The Honorable Mike Anderson, Mayor, City of Mesquite, P.O. Box 850137, Mesquite, Texas 75185.	March 13, 2003.	485490
Texas: Bexar (Case No. 02–06–1684P).	City of Selma	April 17, 2003, April 24, 2003, *The Herald*.	The Honorable Jim Parma, Mayor, City of Selma, 9375 Corporate Drive, Selma, Texas 78154.	March 21, 2003.	480046
Texas: Bexar, Comal, Guadalupe (Case No. 02–06–1684P).	City of Schertz	April 17, 2003, April 24, 2003, *The Herald*.	The Honorable Hal Baldwin, Mayor, City of Schertz, Drawer 1, Schertz, Texas 78154.	March 21, 2003.	480269
Texas: Bexar, Comal, Guadalupe (Case No. 02–06–432P).	City of Schertz, ...	February 13, 2003, February 20, 2003, *The Herald*.	The Honorable Hal Baldwin, Mayor, City of Schertz, P.O. Box Drawer 1, Schertz, Texas 78154.	February 3, 2003.	480269
Texas: Williamson (Case No. 02–06–938P).	Unincorporated Areas.	April 16, 2003, April 23, 2003, *Williamson County Sun*.	The Honorable John C. Doerfler, Judge, Williamson County, 710 Main Street, Georgetown, Texas 78626.	March 13, 2003.	481079

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: June 24, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16543 Filed 6–30–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEs were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended to read as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
ARIZONA	
La Paz County, (FEMA Docket No.# B–7435)	
Centennial Wash:	
Approximately 3,100 feet downstream from the confluence of Tributary A at Wenden	*1,837
Approximately 3,700 feet upstream of Atchison, Topeka and Santa Fe Railroad	*1,884
Tributary B at Wenden:	
Approximately 1,800 feet upstream of the Atchison, Topeka and Santa Fe Railroad	*1,865
Approximately 7,800 feet upstream of the Atchison, Topeka and Santa Fe Railroad	*1,910
Maps are available for inspection at the Community Development, Department. 1112 Joshua Avenue #202, Parker, Arizona.	
Navajo County, (FEMA Docket No.# B–7435)	
Mexican Lake Outlet:	
Approximately 800 feet downstream of Abandoned Railroad	*5,934
Approximately 1,250 feet upstream of Abandoned Railroad	*5,979
Mexican Lake:	
At Mexican Lake	*5,979
White Mountain Lake:	
At White Mountain Lake	*5,979
Rocky Arroyo:	
Approximately 1,000 feet downstream of Silver Creek Drive	*5,980
Approximately 3,900 feet upstream of Silver Creek Drive	*6,084
Lower Silver Creek:	
Approximately 5,140 feet downstream of unnamed Road	*5,638
Approximately 150 feet downstream of the confluence with Show Low Creek	*5,659
Upper Silver Creek:	
Approximately 2,050 feet downstream of Silver Lake Boulevard	*5,980
Approximately 450 feet downstream of Bourdon Rande Road.	*6,107
Maps are available for inspection at the Flood Control Division, County Government Complex, 100 East Carter Drive, Holbrook, Arizona.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
——— **Taylor (Town), Navajo County, (FEMA Docket No.# B–7435)**	
Lower Silver Creek:	
Approximately 3,700 feet upstream of Willow Lane	*5,625
Approximately 23,100 feet upstream of Willow Lane ...	*5,644
Maps are available for inspection at the Town Hall, 425 West Bull Duck Road, Taylor, Arizona.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD)	Communities Affected
SOUTH DAKOTA		
Aurora County and Incorporated Areas, (FEMA Docket No.# B–7435)		
Skunk Creek:		
Approximately 200 feet downstream of the 1st Street Bridge	+1,510	Aurora County (Uninc. Areas), City of Plankinton
At State Street	+1,524	
Approximately 150 feet downstream of Interstate 90	+1,529	
Northwest Drainage:		
At Main Street	+1,517	City of Plankinton
.		
Approximately 500 feet upstream of Kimball Street Bridge	+1,522	

ADDRESSES

Aurora County (Unincorporated Areas)

Maps are available for inspection at 401 North Main Street, Plankinton, South Dakota.

City of Plankinton

Maps are available for inspection at City Hall, 125 North Main Street, Plankinton, South Dakota.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 24, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16542 Filed 6–30–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 030124019–3040–02; I.D. 061903C]

RIN 0648–AQ67

Pacific Halibut Fisheries; Washington Sport Fisheries

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

ACTION: Inseason action; request for comments.

SUMMARY: NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the south coast of Washington. This action would change the days of the week open to halibut fishing in the Washington south coast recreational fishing subarea. The purpose of this action is to allow increased access to Washington's south coast recreational halibut quota while monitoring yelloweye rockfish interception.

DATES: Effective 0001 local time, June 27, 2003, through the **Federal Register** publication of the 2004 specifications and management measures. Comments on this rule will be accepted through July 16, 2003.

ADDRESSES: Submit comments to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. This **Federal Register** document is available on the Government Printing Office's Web site at: *http://www.access.gpo.gov/su__docs/aces/aces140.html.*

FOR FURTHER INFORMATION CONTACT: Jamie Goen or Yvonne deReynier (NMFS, Northwest Region) 206–526–6140.

SUPPLEMENTARY INFORMATION: The Area 2A Catch Sharing Plan for Pacific halibut off Washington, Oregon, and California is implemented in the annual management measures for the Pacific halibut fisheries published on March 7, 2003 (68 FR 10989, as amended at 68 FR 22323, April 28, 2003 and at 68 FR 23901, May 6, 2003). Those regulations established the 2003 area quota for the south coast of Washington (Queets River, WA to Leadbetter Point, WA) fishery of 48,623 lb (22.1 mt) and the related management measures. The all-depth sport fishery in this area is scheduled for 5 days per week (Sunday through Thursday), and the nearshore fishery is scheduled for 7 days per week.

The pace of the all-depth halibut fishery is anticipated to slow off the south Washington coast, similar to 2002, beginning with the start of the recreational chinook and coho salmon fishery on June 22, which will be open through the earlier of September 14 or quota attainment. In 2002, effort shifted from the sport halibut fishery to the

recreational chinook and coho salmon fisheries and a similar shift is expected between these fisheries in 2003.

In 2002, in order to provide more opportunity for the sport halibut fishery to attain their quota for the Washington south coast subarea, an adjustment to the fishing days per week was made inseason (67 FR 46420, July 15, 2002). The sport halibut fishing days were shifted in 2002 from 5 days per week (Sunday through Thursday) to 2 days per week (Friday and Saturday) so as not to coincide with the recreational salmon fishery which was open 5 days per week (Sunday through Thursday). Even with this shift in fishing days to increase opportunity for sport halibut fishing without directly competing with recreational salmon fishing, effort still remained low in the sport halibut fishery. The sport halibut quota was not attained for the south Washington coast subarea in 2002 and 4,221 lb (1.9 mt) remained out of a 42,739 lb (19.4 mt) subarea quota.

Sport halibut catch in the 2003 fishery, as of June 1, 2003, reports 16,593 lb (7.5 mt) of quota remaining out of a 48,623 lb (22.1 mt) quota for the Washington south coast fishery (both all-depth and nearshore). This fishery is scheduled to be open through September 30 or until quota attainment, whichever occurs earlier. Based on data from 2002 and prior years, Washington Department of Fish and Wildlife (WDFW), the agency that directly monitors the sport halibut fishery off Washington's coast, anticipated that the pace of the sport halibut fishery would slow in late June as effort shifted into recreational salmon fisheries. In order to increase opportunity for participation in sport halibut fisheries in the Washington south coast subarea, WDFW recommended to NMFS and the International Pacific Halibut Commission (IPHC) that the all-depth fishery be changed from a 5- days per week fishery (Sunday through Thursday - the same open days as the recreational chinook and coho salmon fisheries) to a 7–days per week fishery. This change would increase the days of the week that a vessel could fish for halibut in the all-depth area to mirror the 7–days per week sport fishery for halibut in the nearshore area. WDFW predicts that most effort in the sport halibut fishery will shift to Friday and Saturday, when there is no opportunity to fish for salmon. However, opening the fishery to 7–days per week allows that flexibility and increased opportunity to attain the 2003 sport halibut quota for this subarea. WDFW is concerned about potential overfished rockfish bycatch in the halibut sport fishery, particularly yelloweye rockfish, and is monitoring recreational fisheries to keep bycatch of yelloweye rockfish below approximately 7,716 lb (3.5 mt) statewide. At the end of May, bycatch of yelloweye rockfish in Washington's recreational fisheries was estimated to be at approximately 2,535 lb (1.15 mt).

Section 25 of the 2003 Pacific halibut regulations provides NMFS with the authority to make certain inseason management changes, provided that the action is necessary to allow allocation objectives to be met, and that the action will not result in exceeding the catch limit for the area. The Catch Sharing Plan's structuring objective for the Washington south coast area is to maximize the season length, while maintaining a quality fishing experience.

The Washington south coast all-depth subarea would be changed from a 5–days per week (Sunday through Thursday) fishery to a 7 days-per week fishery. The purpose of increasing the days per week that may be fished is to improve opportunity for sport halibut quota attainment in the south Washington coast subarea in 2003.

In consultation with the WDFW and the IPHC, NMFS has determined that increasing the fishing days per week in the Washington south coast all-depth subarea to sport halibut fishing 7 days per week meets the Catch Sharing Plan's objective of providing a quality fishing experience without allowing the fishery to exceed the Washington south coast halibut quota. Additionally, this action is not expected to result in bycatch of overfished groundfish species, particularly yelloweye rockfish, above the 3.5 mt set aside for Washington sport fisheries in 2003.

NMFS Action

For the reasons stated above, NMFS announces the following change to the 2003 annual management measures (68 FR 10989, March 7, 2003, as amended at 68 FR 22323, April 28, 2003 and at 68 FR 23901, May 6, 2003) to read as follows:

1. On page 10999, in section 24. Sport Fishing for Halibut, paragraph (4)(b)(iii)(A) in the second column is revised to read as follows:

24. Sport Fishing for Halibut

* * * * *

(A) The fishing season commences on May 1 and continues 5 days a week (Sunday through Thursday) in all waters, and commences on May 1 and continues 7 days a week in the area from Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long., until June 26. Beginning June 27, the fishing season continues 7 days a week in all waters, including the area from Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long., until 48,623 lb (22.1 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever occurs first.

* * * * *

Classification

This action is authorized by the regulations implementing the Catch Sharing Plan. The determination to take these actions is based on the most recent data available. The Assistant Administrator for Fisheries, NOAA (AA), has determined that good cause exists for this document to be published without affording a prior opportunity for public comment under 5 U.S.C. 553(b)(B) because doing so would be impracticable and contrary to the public interest. Providing prior notice and opportunity for public comment would be impracticable because it would delay this action and prevent fishers from accessing the 2 additional fishing days per week that do not overlap with the recreational salmon fishery in an effort to attain the Washington south coast halibut quota for 2003. Delaying this action may unnecessarily reduce the likelihood that the sport halibut fishery in the Washington south coast subarea would achieve the Catch Sharing Plan's objective of attaining the 2003 quota. In addition, some public input on this action was already received via teleconference on June 5, 2003, with NMFS, the IPHC, WDFW, and 4 Washington south coast recreational fishing constituents. Delaying this action is contrary to the public interest because it would force anglers to choose between fishing for halibut or fishing for salmon during the same 5 fishing days (Sunday through Thursday), which would reduce the opportunity to participate in both fisheries. For the above reasons, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(3).

Public comments will be received for a period of 15 days after the effectiveness of this action. This action is authorized by Section 25 of the annual management measures for Pacific halibut fisheries published on March 7, 2003 (68 FR 10989), and has been determined to be not significant for purposes of Executive Order 12866.

Authority: Authority: 16 U.S.C. 773–773k.

Dated: June 25, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–16568 Filed 6–26–03; 2:11 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 126
Tuesday, July 1, 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.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900, 932, 955

[No. 2003–10]

RIN 3069–AB18

Federal Home Loan Bank Acquired Member Assets

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its Acquired Member Assets (AMA) regulation, which authorizes the Federal Home Loan Banks (Banks) to acquire certain whole loans from their members. The changes proposed would place greater responsibility with each Bank to design and manage its AMA program, subject to ongoing supervisory review by the Finance Board. The proposed regulation would maintain the core provisions relating to safety and soundness, but would be less prescriptive and simpler than the current rule. The proposed rule also would codify the authority of a Bank to acquire as AMA assets instruments that are created by Bank members or housing associates in cooperation with a Bank and that represent an interest in loans that individually could qualify as AMA.

DATES: Comments on this proposed rule must be received in writing on or before September 2, 2003.

ADDRESSES: Send comments by electronic mail to *comments@fhfb.gov*, by facsimile to (202) 408–2580, or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, Attn: Public Comments. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Scott Smith, Associate Director, *smiths@fhfb.gov* or (202) 408–2991; Christina Muradian, Senior Financial Analyst, *muradianc@fhfb.gov* or (202) 408–2584, Office of Supervision; Sharon Like, Senior Attorney Advisor, *likes@fhfb.gov* or (202) 408–2930; Thomas Hearn, Senior Attorney Advisor, *hearnt@fhfb.gov* or (202) 408–2976; or Thomas Joseph, Senior Attorney Advisor, *josepht@fhfb.gov* or (202) 408–2512, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is an important first step in the Finance Board's effort to shift the focus of its regulations from a prescriptive approach to an approach that places greater responsibility on the Banks and relies more on supervisory review. The Finance Board believes that an increased focus on the process of supervisory review will enhance the safety and soundness of the Bank System.

On May 3, 2000, the Finance Board published a proposed rule to authorize the Banks to acquire certain whole loans. *See* proposed rule, Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances, 65 FR 25676 (May 3, 2000) (hereinafter the ''Proposed AMA Rule''). The Finance Board subsequently adopted a final AMA regulation, which became effective on July 17, 2000. *See* final rule, Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investment and Advances, 65 FR 43969 (July 17, 2000) (hereinafter the ''current rule'' or ''final AMA rule''). The current rule authorizes the Banks to acquire certain loans (principally conforming residential mortgage loans) from their members and housing associates as a means of advancing their housing finance mission, and prescribes in some detail the manner in which the Banks may do so.

Since implementation of the current rule, the Finance Board has recognized that an alternative approach, one that places greater responsibility on the Banks, would likely prove to be more effective and efficient in regulating the Banks' mortgage purchase programs. In addition, the Finance Board, now with several years experience in overseeing these programs, has identified a number of opportunities to clarify and simplify the current rule.

Specifically, the current rule includes prescriptive provisions concerning the risk-sharing structure that may not be necessary for safety and soundness purposes. Such provisions include the requirement that the rating methodology be verified in writing by a Nationally Recognized Statistical Rating Organization (NRSRO), even though the methodology remains subject to Finance Board approval, and that there must be certain restrictions on the credit enhancement structure, even though the member must bear the economic cost regardless of structure. Also, the current rule includes terms that have proven to be unclear and difficult to define, such as ''expected losses'' and ''valid business purpose.'' Further, the current rule does not specifically incorporate language to authorize the Banks to acquire as AMA certain instruments that are created by Bank members or housing associates in cooperation with a Bank and that represent an interest in AMA-eligible loans. *See* final AMA rule, 65 FR at 43974–78. Finally, the practice of collecting AMA data has evolved from the reporting requirements set forth in the current rule, such that some data elements have been found to be either unnecessary or readily available from other sources, while others must be collected going forward to comply with revised modeling requirements and regulatory standards.

Although some opportunities to improve the current rule exist, the current rule does contain a number of appropriate and necessary safety and soundness provisions. These provisions would be maintained or strengthened in the proposed rule, and include the requirements that all AMA must be at least investment grade when acquired, and that only highly rated insurers may provide some portion of the credit enhancement.

The Finance Board invites anyone with an interest in this proposed rule to submit written comments to the Finance Board during the comment period.

II. Analysis of Proposed Rule

The proposed rule would revise the current rule as described in the following sections.

A. Definitions—Section 955.1

The proposed rule would add four new defined terms, and would delete two of the existing definitions. Changes to individual definitions in the proposed rule are discussed in later sections of this **SUPPLEMENTARY**

INFORMATION section in the context of specific regulatory requirements.

B. Authorization To Invest in AMA—Section 955.2

Section 955.2 of the current rule authorizes a Bank to invest in AMA, and establishes a three-part test for AMA-eligible investments. *See* 12 CFR 955.2. The current rule prescribes the types of assets that may qualify as AMA, the required nexus between the Bank and its member or housing associate, and the details of the credit risk-sharing provisions. Under the proposed rule, this section would simply authorize a Bank to invest in AMA, subject to the provisions of part 955 and 12 CFR part 980 (relating to new business activities). The existing provisions relating to asset type, member nexus, and credit risk sharing would be relocated to separate sections.

The proposed rule also would add a definition of ''AMA'' to § 955.1, and would make conforming changes to the existing definition of ''AMA'' in 12 CFR 900.2. Under those definitions, the term ''AMA'' would mean any assets acquired in accordance with, and satisfying the applicable requirements of, proposed §§ 955.3, 955.4 and 955.5, which address the asset type, member nexus, and credit enhancement requirements, respectively.

C. Three-Part Test—Proposed §§ 955.3, 955.4 and 955.5

The proposed rule would relocate and revise each element of the three-part test, which currently is set forth in §§ 955.2(a), 955.2(b) and 955.2(c).

1. Asset Requirement—Proposed § 955.3

Proposed § 955.3, which would specify the types of assets that are AMA-eligible, would eliminate one item that currently qualifies as AMA and add another item that the Finance Board has included as AMA by interpretation. The proposed rule would retain the provisions of the current rule relating to the acquisition of whole loans that are eligible to secure Bank advances, or that are secured by manufactured housing. *See* 12 CFR 955.2(a)(1), (a)(2). The proposed rule would eliminate the current provision that allows certain state or local housing finance agency (HFA) bonds to qualify as AMA. 12 CFR 955.2(a)(3). The Banks are authorized to invest in certain highly rated HFA bonds under other provisions of the regulations, and the Finance Board believes that eliminating the separate investment authority under the AMA regulation would not affect the ability of a Bank to invest in HFA bonds rated AA or higher. *See* 12 CFR 956.2(f), 956.3(a)(4)(iii). Because the proposed rule would remove HFA bonds as AMA, the proposed rule also would eliminate provisions that establish a process for acquiring HFA bonds as AMA from a member or housing associate of another Bank. 12 CFR 955.2(b)(2)(ii).

AMA-qualified interests in whole loans. Section 955.3(c) of the proposed rule would expressly authorize as AMA investments certain instruments that represent an interest in qualifying whole loans. The Banks currently are authorized to make such AMA investments, based on Finance Board guidance provided in the preamble to the current rule. *See* final AMA rule, 65 FR at 43974–78. The proposed rule would codify the existing guidance. The several provisions of the proposed rule that relate to these interests are discussed together below, under the section captioned *AMA-Qualified Interests in Whole Loans.*

2. Member or Housing Associate Nexus Requirement Proposed § 955.4

Section 955.4 of the proposed rule would retain a nexus requirement by providing that a Bank may acquire AMA-eligible loans only from its members and housing associates, from members and housing associates of another Bank, or from another Bank. The nexus requirement is intended to ensure that AMA assets have an appropriate connection to the Bank's member or housing associate. That connection advances the cooperative nature of the Bank System, and effectively precludes the extension of membership benefits to nonmembers. The proposed rule, however, would simplify this member or housing associate nexus requirement. The specific revisions are described below.

''Valid business purpose'' requirement. The proposed rule would eliminate the ''valid business purpose'' requirement from § 955.2(b)(1)(ii) of the current rule. 12 CFR 955.2(b)(1)(ii). This provision of the current rule recognizes that members often acquire mortgage loans both by originating them, as well as by purchasing them from other parties and allows the Banks to acquire loans originated by third parties, provided that the members have acquired them for a valid business purpose. It is intended to discourage the use of members as conduits for the sole purpose of passing mortgage loans from a nonmember to the Bank. The current rule, however, does not define what constitutes a ''valid business purpose,'' and this provision has been difficult to enforce as written. The proposed elimination of this requirement is intended only to simplify the rule, and does not alter the underlying policy that AMA-eligible whole loans may be acquired only from members and housing associates.

Origination or issuance requirement. The proposed rule would eliminate the requirement that AMA must be originated or issued by or through a member, housing associate, or affiliate thereof. 12 CFR 955.2(b)(1)(i). Eliminating this requirement is consistent with the elimination of the ''valid business purpose'' requirement, noted above. To eliminate only the ''valid business purpose'' requirement would render ineligible for purchase by Banks AMA-qualifying loans owned by, but not originated by, members. This limitation would put a large segment of the mortgage market out of reach of the AMA programs.

If the ''valid business purpose'' and ''origination or issuance'' provisions are eliminated, as proposed, the AMA rule would no longer use the term ''affiliate.'' Thus, the Finance Board is also proposing to delete the definition of ''affiliate'' from § 955.1.

Acquisition of assets from affiliates of a member. As noted previously, the proposed rule would retain the requirement that a Bank may acquire AMA only from a member, a housing associate, or another Bank. 12 CFR 955.2(b)(2). Accordingly, a Bank could not purchase mortgage assets directly from an affiliate of a member, and any such assets would have to be acquired by the member before a Bank could acquire them as AMA. A number of Banks have suggested that the Finance Board permit the Banks to acquire assets directly from affiliates of a member. As noted above, the nexus requirement ensures that AMA assets have a connection to the members that reflects the cooperative nature of the Bank System. Allowing a Bank to purchase AMA directly from an affiliate would raise concerns about the extension of membership benefits to a nonmember, even if the nonmember were under common control with a member. Such an arrangement might also present practical and operational concerns relating to AMA collateral and credit enhancement because a Bank would have more extensive means of requiring a member to meet its obligations than would be the case for a nonmember institution. The Finance Board, however, is willing to consider this issue further and requests comment on whether, and under what conditions, a Bank may be permitted to acquire AMA-qualifying assets from an affiliate of a member. Among the issues on which the Finance Board seeks comments are whether the rule should treat a wholly-

owned subsidiary of a member differently from other affiliates that are not controlled by the member, and whether the rule should allow an affiliate to sell loans to a Bank, so long as the related member provides the required credit enhancement.

3. Credit Risk-Sharing Requirements—Proposed § 955.5

The proposed rule would revise certain aspects of the credit risk-sharing requirements and would reorganize the credit risk-sharing requirements to achieve greater clarity. As noted below, the proposed rule would retain the requirements that the member must enhance the AMA to at least investment grade and that supplemental insurance providers must be rated at least the second highest investment grade. The Finance Board believes that these provisions are important for safety and soundness reasons.

a. Required Credit Risk-Sharing Structure—Proposed § 955.5(a)

AMA product requirement. Proposed § 955.5(a)(1) would retain the current requirement that the Bank implement a credit risk-sharing structure for each AMA Product,[1] under which a member or housing associate provides the credit enhancement necessary to enhance an asset or pool of assets acquired by the Bank to the equivalent of investment grade. 12 CFR 955.3(b). The proposed rule also would add a definition of ''investment grade'' to § 955.1, which would define the term to mean a credit quality rating in one of the four highest credit rating categories provided by an NRSRO.

Asset requirement. Proposed § 955.5(a)(2) would require a Bank to specify the level within investment grade to which the credit quality of the particular AMA asset or pool of assets must be equivalent. In substance, this revision is the same as the current provision, which authorizes a Bank to require a member or housing associate to provide sufficient credit enhancement to raise the credit quality of the AMA assets above the minimum level of investment grade, *e.g.*, BBB. *See* 12 CFR 955.3(b).

Satisfaction of credit enhancement requirement. Proposed § 955.5(a)(3) would require, for each AMA Product, that the Bank have in place a process and methodology that determines the credit enhancement required, and that demonstrates that the economic value of the credit enhancement provided by the member or housing associate is sufficient to meet the credit enhancement required. The Bank must have the process and methodology in place prior to the acquisition of any AMA assets, and must maintain the process and methodology for however long the assets remain on its books. The Bank would be required to satisfy the Finance Board as to the adequacy of the process and methodology.

While the proposed rule would maintain the requirement that a Bank must demonstrate the sufficiency of the methodology and economic value of the credit enhancement, to the satisfaction of the Finance Board, the proposed rule would eliminate the requirement that such demonstration may be provided only by written verification from an NRSRO. 12 CFR 955.3(a), (b)(4). Although a Bank could continue to use written NRSRO verification to demonstrate this sufficiency, the proposed rule is intended to allow the Banks the opportunity to determine other means by which to satisfy the requirement. Moreover, although the Finance Board is proposing to eliminate the specific requirement that a Bank obtain written verification from an NRSRO, the Finance Board would continue to use NRSRO standards and practices as the benchmark against which it judges the sufficiency of a Bank's methodology and the economic value of the credit enhancement. Thus, as under the current rule, to the extent an NRSRO were to decline to rate a structured finance transaction because the underlying asset pool included particular types or categories of assets, then the presence of such assets within an AMA pool would effectively preclude a Bank from calculating a putative credit rating for that pool and from complying with the proposed credit enhancement requirements with regard to that particular pool.[2]

The proposed requirement that a Bank must have in place its process and methodology ''prior to the acquisition of any asset or pool of assets and throughout the life of the asset or pool of assets on the Bank's books,'' would replace the current requirement that the Bank must determine the required credit enhancement at the earlier of 270 days from the date of the Bank's acquisition of the first loan in a pool, or the date at which the amount of a pool's assets reaches $100 million. 12 CFR 955.3(a). As a result of this provision, a Bank would be responsible for ensuring that none of its actions, such as the approval of the sale of mortgage servicing rights by a member or housing associate that is responsible for the required credit enhancement, would affect the estimated credit rating of an asset.

Elimination of outdated provisions. The proposed rule would eliminate § 955.3(c) of the current rule, which established a 90-day period within which AMA programs in existence at the time of the effective date of the current rule had to obtain new NRSRO opinion letters. 12 CFR 955.3(c). This provision no longer has any effect, as the 90-day period has since passed.

Decline in estimated credit rating. Section 955.5(a)(4) of the proposed rule would clarify the responsibilities of a Bank in the event that the estimated credit rating of an AMA asset or pool of assets were to decline to below the initially required credit rating. In those circumstances, the Bank must either require the member or housing associate to provide sufficient additional credit enhancement to restore the rating, or must recalculate and comply with the risk-based capital requirement for that asset to reflect the reduced estimated credit rating. The substance of this provision is much the same as § 955.6(b) of the current rule. *See* 12 CFR 955.6(b).

b. Credit Enhancement Requirements—Proposed § 955.5(b)

Member or housing associate responsibility. Proposed § 955.5(b)(1) would retain the requirement in § 955.3(b) of the current rule that the credit enhancement must be provided by a member or housing associate of the Bank or, with the approval of both Banks, by a member or housing associate of another Bank. 12 CFR 955.3(b). The proposed rule would eliminate, however, many of the prescriptive structural requirements with regard to the credit enhancement that are now contained in § 955.3(b). Instead, the proposed rule would allow a Bank greater freedom to design specific AMA Products. The Finance Board intends to rely on its examination and review process to verify that a Bank's AMA Products comply with the proposed credit enhancement requirements. Because the proposed credit enhancement requirements would not refer to ''expected losses,'' as does the current rule, the Finance Board is also proposing to delete the definition of this term from § 955.1.

Economic cost; third party credit enhancement. Section 955.5(b)(2) of the proposed rule would broadly state that

[1] The Finance Board is proposing to add a new definition to § 955.1 that ''AMA Product'' means an AMA structure defined by a specific set of terms and conditions.

[2] For example, if Standard & Poor's continues to decline to rate mortgage pools that contain loans subject to the Georgia Fair Lending Act, as in effect from October 1, 2002, until March 7, 2003, the Banks would not be in a position to demonstrate that they could rate such loans. Thus, the Banks could not buy such mortgage loans as AMA and still comply with proposed § 955.5(a)(3).

the member or housing associate that initially provides the credit enhancement must bear all of the direct economic consequences of the credit enhancement responsibility. This means that no part of the credit enhancement costs can be paid by a Bank, either directly or indirectly. The proposed rule also would eliminate the criteria in § 955.3(b)(1) of the current rule that apply if a member or housing associate provides a portion of its required credit enhancement through a third party, *i.e.*, by contracting with an insurance affiliate, by purchasing loan-level or pool-level insurance, or by contracting with another member or housing associate. Instead, the authority to provide the required credit enhancement through a third party would be implied from the more general requirement in proposed § 955.5(b)(2) that the member or housing associate must bear all of the economic consequences of the credit enhancement responsibility. This broader language would allow a member or housing associate to purchase insurance (which could include United States government guarantees or insurance) for a portion or all of the credit enhancement obligation, or to sell a portion or all of the obligation to another qualified party, so long as the member or housing associate bears all of the economic consequences of the credit enhancement obligation. *See* proposed § 955.5(b)(1). The current requirement that a third party may cover only those losses that remain after the member or housing associate has borne expected losses, would be eliminated. *See* 12 CFR 955.3(b)(1)(i), (b)(1)(ii)(B), (b)(1)(iii)(B), (b)(2). Additional requirements applicable where the third party is an insurer are discussed in the *Use of mortgage insurance* section below.

Although the proposed rule would retain the current requirement that members or housing associates are responsible for providing the necessary credit enhancement to raise the credit quality to investment grade, it is less prescriptive than the current rule. This approach is not intended to alter the economics of the current risk-sharing requirement. Instead, it is intended that with fewer restrictions on the form of the credit enhancement, and on the type and degree of supplemental mortgage insurance (SMI), the Banks may develop alternative credit enhancement structures, such as through greater use of pool insurance.

Direct obligations of members. Section 955.5(b)(3) of the proposed rule would clarify provisions in the current rule by stating that any portion of a credit enhancement that is a direct obligation of a member or housing associate and that is not covered by third party insurance generally must be fully secured by that member or housing associate with collateral that is eligible to secure an advance. The current rule had prompted questions about the need for collateral for obligations that are covered by insurance, and the proposed rule would make clear that collateral is required only to support a direct obligation of the member or housing associate itself, not the obligations of an insurer. The proposed rule also would clarify the effect of a transfer of the credit enhancement responsibility to another member or housing associate, by providing expressly that the successor shall continue to comply with any collateral requirements that applied to the initial member or housing associate. Under the proposed rule, a Bank would have an option of holding permanent capital against such direct obligations, in an amount equal to 100 percent of the nominal value of the obligation, in lieu of obtaining collateral from the member or housing associate.

The Finance Board has been asked previously to permit a member or housing associate to secure its credit enhancement obligation with collateral that is not eligible under the Bank Act to secure advances. The Finance Board has not included such a provision in the proposed rule, but requests comment on whether it would be appropriate to allow a member or housing associate to use such non-Bank Act-eligible collateral to secure its credit enhancement obligations.

Use of mortgage insurance. Section 955.5(b)(4) of the proposed rule would authorize a member or housing associate to provide all or a portion of its required credit enhancement through mortgage insurance, provided that the insurer is rated not lower than the second highest credit rating. If the rating of the insurer were to fall below the second highest credit rating, the member or housing associate would have 60 days to replace the insurance with an insurer that has the required credit rating. This provision would modify the current rule, which requires that such insurance be maintained at all times, and is intended to recognize that a member or housing associate may not be able to immediately obtain replacement insurance. 12 CFR 955.3(b)(1)(ii)(A). The proposed rule also would clarify the current rule by making clear that the minimum credit rating requirement is applicable to both loan-level and pool-level insurers.

The proposed rule also would eliminate the current restrictions on the type of insurance, particularly pool insurance, that may be used to cover any portion of the credit enhancement. Under the current rule, a member may use pool-level insurance only to cover that portion of the credit enhancement obligation that is attributable to geographic concentration and pool size. *See* 12 CFR 955.3(b)(1)(iii). Allowing broader use of pool insurance may enhance the safety and soundness of the Banks' AMA programs. Although the proposed rule would place fewer limitations on the use of mortgage insurance, the Finance Board expects the Banks to continue to monitor closely their exposures to individual mortgage insurers and to manage these exposures prudently. A Bank should perform an independent credit analysis of the SMI companies with which it does business to gain a more detailed understanding of their financial condition and operating performance considering the potential credit concentrations and exposure levels involved. A Bank should evaluate its potential exposure in determining the depth of credit analysis appropriate for individual SMI providers.

c. Grandfathered Transactions

The proposed rule would retain the existing AMA grandfather provision, with minor technical revisions, and would relocate it to proposed § 955.5(c). 12 CFR 955.2(c)(2). Under the proposed provision, any AMA-type assets acquired by a Bank in accordance with prior resolutions of the Finance Board would not be subject to the credit enhancement requirements in proposed § 955.5 of the AMA rule, provided that they remain within any total dollar cap imposed by the Finance Board.

D. AMA-Qualified Interests in Whole Loans

The Finance Board is proposing to incorporate into the AMA rule previous guidance addressing the acquisition of instruments that represent an interest in AMA-eligible loans. The Finance Board had previously provided this guidance as part of the **SUPPLEMENTARY INFORMATION** section of the final AMA rule. *See* final AMA rule, 65 FR at 43974–78. Codifying this guidance is intended to make more transparent the existing authority for the Banks to acquire such instruments as AMA. In adopting the Final AMA Rule, the Finance Board stated that a Bank may acquire certificates representing interests in whole loans as AMA only if:

(1) The certificates are rated by an NRSRO to meet the credit enhancement requirement of § 955.3;

(2) The certificates are issued following the execution of, and for the purpose of implementing an agreement between and

initiated by the Bank and a Bank System member or housing associate to share risks in compliance with the requirements of § 955.3(b); and

(3) The initiating Bank or Banks acquire substantially all of the certificates. It is the Finance Board's view that, in such a case, the use of a third party to securitize the whole loans would merely represent a vehicle to invest in certain types of AMA under more favorable terms and should therefore be permitted under the rule. However, if the certificates have been created as a security initially available to investors generally, they will not be considered to qualify as ''whole loans'' under § 955.2(a)(1).

Id. at 43974. The Finance Board further explained that mortgage financing instruments structured into senior and subordinated tranches also could be included in the general definition of AMA as long as the transaction was ''implemented through a Bank's AMA program using assets that conform with the AMA requirements'' and the member involved in the transaction ''bore the risk of holding or selling the credit support tranches.'' *Id.* at 43977. The proposed rule would incorporate the above criteria, albeit in a less prescriptive form, into the three-part AMA test in §§ 955.3(c), 955.4(b) and 955.5.[3]

Section 955.3(c) of the proposed rule, first, would require any instrument that represents an interest in whole loans to be backed only by loans that would be eligible for a Bank to acquire as AMA. In order to qualify as AMA, any such interests also must be created by a member or housing associate, in cooperation with a Bank. To help assure that the Bank's purchase of such instruments is not a mere capital markets transaction that would not advance the housing finance mission of the Bank System, the Bank cooperating in the creation of the instruments would be required initially to acquire substantially all of the assets issued under this arrangement.

Proposed § 955.3(c) also would make clear that interest only strips (IOs), principal only strips (POs), as well as other interests in the underlying loans that have risk characteristics similar to IOs or POs, would not qualify as AMA.[4] At this time, the Finance Board does not believe that these classes of assets would be consistent with the underlying purpose of the AMA rule, which is to allow a Bank to acquire a high-quality asset from or through its members and housing associates by transactions that support its statutory housing finance mission. *See* proposed AMA rule, 65 FR at 25681.

Second, § 955.4(b)(1) of the proposed rule would require that the whole loans underlying an AMA-qualified instrument may be acquired only from the same sources from which a Bank may acquire AMA-qualified whole loans. Thus, if a member were to use a trust or other special purpose entity to issue the AMA-qualified interests, the underlying loans must be purchased from: A member or housing associate of the Bank; a member of another Bank, pursuant to an arrangement with that Bank; or a Bank, if approved by the Finance Board. Section 955.6 of the proposed rule would prohibit the use of existing AMA assets to create an AMA-qualified instrument, without the prior approval of the Finance Board. To preserve the nexus between any such AMA-qualified interests in whole loans and the Bank System, the proposed rule also would allow a Bank to sell AMA-qualified interests in whole loans only to other Banks or to members of any Bank.

Finally, to qualify as AMA, an instrument representing an interest in whole loans would have to meet the same credit risk-sharing requirements as are applicable to other AMA-qualified assets. Thus, the instrument would need to be credit-enhanced to a credit quality equivalent to one of the four categories of investment grade, as determined by the Bank. The proposed rule would differ from the prior guidance provided in the Final AMA Rule, in that it would not require an AMA-qualified interest in whole loans to receive a public rating from an NRSRO. If an NRSRO were to provide a public investment grade rating of the level required by the Bank, that rating would generally satisfy the requirements of proposed § 955.5(a). Further, under proposed §§ 955.5(b)(1) and (b)(2), the member that arranged the creation of the AMA-qualified interest would need to provide the required credit enhancement, and bear all of the economic consequences of the credit enhancement responsibility, as is the case with respect to whole loan AMA assets. The required credit enhancement could be provided through subordinated or credit support tranches. A member generally could meet its obligations under the proposed rule if it were to acquire these support tranches, even if the member later sold these interests.[5] The proposed rule also would allow forms of credit enhancement other than a credit support or subordinated tranche, subject to the Bank satisfying the Finance Board that the credit enhancement obligations of the member or housing associate would meet the requirements of proposed § 955.5(b).

[3] The Finance Board's guidance in the final AMA rule was applied in reviewing the Federal Home Loan Bank of Chicago's (Chicago Bank) new business activity notice with regard to the Chicago Bank's Shared Funding™ Program (SFP), an AMA product offered under the Mortgage Partnership Finance Program™ (MPF). See Approval of New Business Activity Notice, 2002–APP–07 (Dec. 4, 2002) (available at *www.fhfb.gov*). Generally, under SFP, a member of the Chicago Bank will purchase AMA-eligible whole loans from other Bank members that have been approved to participate in the program. The Chicago Bank member will transfer these loans to a special purpose entity (SPE) that it establishes. The SPE, in turn, will issue certificates that represent senior investment grade securities and credit support tranches and that are backed by the whole loans. The member will acquire the credit support tranches. The Chicago Bank will acquire the senior investment grade securities, all of which will receive a credit rating from an NRSRO of the second highest investment grade or better. The approval permits the Chicago Bank, or any Bank that subsequently purchases these senior securities, to sell the securities only to other Banks or qualified Bank members. The new business activity approval does not apply to transactions that would involve any loans that a Bank previously purchased as AMA. *Id.* The Chicago Bank announced the completion of its first SFP transaction on March 21, 2003.

[4] The Finance Board recognizes that Banks have expressed interest in buying IOs or POs, specifically as hedging vehicles. This proposed provision would not prevent the Finance Board from removing restrictions that currently prohibit a Bank from acquiring these types of assets for investment or hedging purposes under authority in part 956 of the Finance Board's rules, should the Finance Board decide that such restrictions are no longer warranted. 12 CFR part 956. The proposed provision, instead, would merely clarify that these assets could not be considered AMA and could not be purchased under the authority granted in proposed part 955.

[5] By acquiring the subordinated credit support tranches, the member would be bearing the direct economic consequences of losses from the underlying loans. Clearly, this will be true if the member holds the support tranches for the entire life of the pool of loans underlying the assets, because it will absorb all actual losses up to the required credit enhancement level. The member also will bear the economic consequence of these losses, however, if it sells some or all of the subordinated credit support interests, because of the price risk inherent in the sale of these instruments. Markets will reward low credit losses in the underlying pool of loans with higher prices, and penalize high losses with lower prices. Because of this, the member maintains a strong incentive to assure the credit quality of the loans that will back the senior, AMA-qualified tranches purchased by the Bank, even if the member intends to sell the credit support tranches.

Moreover, given that credit support tranches would be structured to absorb losses up to the initial required amount of the credit enhancement, a Bank that buys the senior investment grade tranches would have no credit exposure to the member that initially acquires the credit support tranches or to any subsequent party that may purchase these support tranches. A credit support tranche, therefore, would not be within the meaning of the phrase ''direct obligation of a member or a housing associate'' as used in proposed § 955.5(b)(3), and a member or housing associate would not need to provide collateral in connection with this form of credit enhancement. Because the member would not be required to post collateral for the credit support tranches, there also would be no need to restrict the member's sale of those tranches to other Bank members.

E. Restructuring of AMA—Proposed § 955.6

The Finance Board is proposing to add new § 955.6 to the AMA regulation. This provision would prohibit a Bank from using or selling AMA that it has already purchased and is holding on its books to create alternative asset structures, including those assets described in § 955.3(c) of the proposed rule, without first obtaining Finance Board approval. Actions taken by a Bank with the intent to alter the putative or actual rating of its existing AMA or otherwise change the form of an asset or an asset's existing credit risk-sharing structure, would be covered by this provision. Among the factors the Finance Board would consider in reviewing a request for approval under this proposed section would be: How a Bank intends to unwind an existing credit enhancement structure or incorporate the credit enhancement into the structure of the new asset; whether, after the proposed repackaging is complete, a Bank would be holding an asset that it would not be authorized to purchase under Finance Board rules; and whether the new asset would advance or enhance the housing finance mission embedded in the AMA rule.

F. Reporting Requirements for AMA—Proposed § 955.7

Under the proposed rule, the reporting requirements for AMA, which currently are contained in § 955.4, would be revised and relocated to § 955.7.

The proposed rule would clarify, in new § 955.7(a), that each Bank that has members or housing associates that have provided the initial credit enhancement for AMA, would be responsible for collecting and maintaining the loan-level and pool-level data required by § 955.7 for all residential mortgage loans that constitute or otherwise back such AMA, including assets described in § 955.3(c). The Bank would have this responsibility regardless of whether the AMA is participated in whole or in part to other Banks. Although the Bank would be responsible for collecting and maintaining this data and reporting the data to the Finance Board, the Bank could arrange by contract with another Bank to have this responsibility carried out by the other Bank.

The proposed rule is intended to reduce the overall burden of AMA data collection on the Banks while improving the informational content of the data that are collected. The burden would be lessened by reducing the number of data elements to be collected, by eliminating reporting redundancies, and by eliminating a requirement that the Banks aggregate data prior to reporting. Informational content would be improved by increasing the frequency of loan-level data reporting, codifying in the proposed rule the current practice of reporting certain data elements added since the implementation of the current rule, and adding a few more data elements needed to satisfy updated credit risk modeling requirements and to comply with revised Office of Management and Budget (OMB) reporting classifications.

Conforming the requirements to existing practice. In consultation with the Banks, the Finance Board designed a reporting format for the semi-annual loan-level mortgage reports. In the course of these consultations, non-substantive changes were made to the data requirements of § 955.4, including refining the definitions of some of the reporting elements, and adding new elements to improve database management and enhance monitoring.[6] In addition, while the current rule only requires reporting on loans acquired year-to-date, it was determined that for purposes of safety and soundness monitoring, certain variables should be required to be reported for all outstanding AMA residential mortgage loans, not just for AMA residential mortgage loans acquired during the calendar year. Thus, program-to-date data are currently collected along with data on loans acquired in the calendar year in order to track the performance of each loan and enhance the ability to track delinquencies. The proposed amendments to the data reporting structure and content would reflect the current reporting system in this regard.

Proposed elimination of data elements. Since the current rule went into effect, loan-level data have been reported for four semi-annual reports, and this reporting experience has revealed that some fields required in the current rule are either very sparsely populated or are relatively difficult to collect and provide little information relative to the housing finance mission of the Banks or safety and soundness monitoring. The proposed rule would eliminate these fields.[7]

The current rule also has resulted in reporting duplication. Basic information on loans acquired during the first two quarters of the year is reported twice—first in the second quarter loan-level report and again in the fourth quarter loan-level report. Under proposed § 955.7, loan-level data on the loan, borrower and property characteristics would be required to be reported only once—at the end of the calendar quarter in which the loan is acquired. *See* proposed Appendices A and B, part I.

Proposed reduction in reporting burden. Proposed § 955.7 would reduce the reporting burden on the Banks by eliminating the requirement that the Banks generate aggregate data reports from the loan-level data they collect. Instead, the proposed rule would require that the Banks submit loan-level data in place of the aggregate data. Because the loan-level data are collected and maintained by the Banks in any event, eliminating the aggregate reporting requirement would reduce the Banks' computational burden of aggregating the loan-level data.

In addition, the proposed rule would relieve the Banks from reporting elements that are already collected elsewhere by the Finance Board. Specifically, elements the Banks would no longer report are those that describe the acquiring lender, or member selling the AMA to the Bank, and those containing census level demographic information related to the property.[8] These elements are collected now by the Finance Board through its membership data collection and directly from the Department of Housing and Urban Development (HUD). The proposed rule

[6] The definition of ''County'' was changed from the county name to the 3-digit Federal Information Processing Standard (FIPS) code for the county. The definition of ''PMI Percent'' was changed from percent of private mortgage insurance to percent of primary mortgage insurance, including mortgages insured by government agencies. The definition of ''Credit Enhancement'' was changed from the numeric code indicating the type of credit enhancement to the dollar value of the calculated loan-level credit enhancement. ''Prepayment Penalty Terms'' was changed to ''Prepayment Penalty Date'' and defined as the date that the application of the prepayment penalty ends. ''Default Status'' was changed to ''Delinquency Status'' and represented the delinquency status of the loan at the end of the reporting period. ''Pool Rating'' for the letter credit rating of the loan pool was added to the loan-level data reporting requirement. ''Interest Rate'' was defined as the note rate on the loan at the time of loan origination. New variables added for database management purposes were: ''Program Type'' and ''Pool Number.''

[7] Fields that were found to provide little information were the geographic indicator ''Place Code,'' and mortgage identifiers ''Cooperative Unit Mortgage,'' ''Mortgage Purchased under the Banks'' Community Investment Cash Advances (CICA) Programs'' (for single-family AMA), and ''Bank Real Estate Owned.'' ''Acquisition Type'' would be eliminated due to the addition of the ''Program Type'' data element.

[8] The eliminated elements include ''Acquiring Lender Institution,'' ''Acquiring Lender City,'' ''Acquiring Lender State,'' ''Type of Acquiring Lender Institution,'' ''Census Tract—Percent Minority,'' ''Census Tract—Median Income,'' ''Local Area Median Income,'' ''Tract Income Ratio,'' ''Area Median Family Income,'' ''Borrower Income Ratio,'' ''Unit—Affordable Category,'' ''Unit Type XX—Affordability Level'' (for multi-family AMA), and ''Geographically Targeted Indicator.''

would instead add only a single element to identify such member, the ''Federal Housing Finance Board Identification (FHFBID) Number,'' which will permit linking the AMA data with the Finance Board's membership database.

The proposed rule would also reduce reporting redundancy by removing pool variables from the loan-level data report and requiring a separate pool-level data report. Under the current reporting system, the pool-level credit rating, as well as the participation percentage of each Bank in a loan's pool, is reported at the loan-level. Thus, the same information about the pool is reported numerous times, once for each loan in the pool. Under the proposed rule, a pool identifier would be reported at the loan-level, and pool-level information would be reported only once in the pool-level report. In addition to streamlining the pool-level data reporting, proposed §§ 955.7(c) and (d) would require the Banks to provide a quarterly update on loan pools so that the Finance Board can monitor changes in the credit quality of pools and estimated or actual credit enhancements, which are important safety and soundness considerations. *See* proposed Appendices A and B, part III. The pool-level report would include: The ''Bank District Flag;'' the ''Pool Number;'' 12 variables representing the ''Participation Percentages'' of each of the 12 Banks in the pool; and four variables representing information on the pool credit enhancement and credit rating—''Pool Rating,'' ''Pool Credit Enhancement,''[9] ''Recalculated Pool Rating,'' and ''Recalculated Credit Enhancement.''

Proposed addition of new data elements. The proposed rule would add several new fields to the list of required data elements to comply with OMB Notice of Decision, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' 62 FR 58782 (October 30, 1997) (OMB Notice of Decision). Specifically, ''Borrower Ethnicity'' and ''Co-Borrower Ethnicity,'' which currently are collected and reported under the ''Borrower Race or National Origin'' and ''Co-Borrower Race or National Origin'' fields, would be separately collected and reported. The race fields would be renamed ''Borrower Race'' and ''Co-Borrower Race,'' consistent with the OMB Notice of Decision.

The proposed rule also would add the following loan-level data elements to allow for better tracking and modeling of prepayment and default rates of AMA: ''Type of Credit Score;'' redefinitions of ''Borrower Credit Score'' and ''Co-Borrower Credit Score'' to include, in addition to the Fair, Isaacs, Co. (FICO) score, the NextGen FICO credit score; ''Adjustment Frequency;'' ''Negative Amortization;'' ''Current Unpaid Principal Balance;'' ''Current Coupon;'' and ''Loan Amount'' (for multi-family AMA).

Each of the two proposed Appendices would be sub-divided into three parts for the three types of data that would be required to be collected and reported: Part I—Loan-level data elements to be reported for all single-family and multi-family AMA acquired during the calendar quarter; part II—Loan-level data elements to be reported for all single-family and multi-family AMA outstanding in the calendar quarter; and part III—Pool-level data elements to be reported for pools of single-family and multi-family AMA. The loan-level data elements contained in part I of both Appendices generally reflect characteristics of the loan or the borrower(s) and should not change over the life of the loan. As indicated above, to simplify the current reporting requirements, loan-level data specified in part I would only be required to be submitted during the calendar quarter in which the loan is acquired by a Bank.

The loan-level data elements contained in part II of the Appendices would include data that the Bank would be required to report for all single-family and multi-family AMA outstanding in a calendar quarter. These data elements are more meaningful when monitored on a continuing basis. This information would be used by the Finance Board to create and maintain a database to be used for safety and soundness monitoring, particularly of the Bank's risk management.

Part III of the Appendices would contain the data that the Bank would be required to report for pools or assets backed by pools. This information also would be used by the Finance Board to monitor the safety and soundness of the Bank's AMA program.

The Finance Board seeks comments on whether the data descriptions in proposed Appendices A and B are clear with regard to whole loans, or pools of such loans, that would back assets described in proposed § 955.3(c).

Failure to obtain data elements. The Finance Board recognizes that members or housing associates from whom the Banks acquire AMA may be unable to supply, or may fail to supply, all of the data items specified in Appendices A and B for all assets.

Neither the Bank, nor the member or housing associate from which the Bank acquires an asset, is expected to guarantee that all data items for each asset will be supplied. However, the Finance Board does expect the Banks to: Monitor how completely members or housing associates supply the requested data; identify and report to the Finance Board difficulties, problems or issues with respect to particular data fields or particular members or housing associates; and work with members and housing associates to minimize gaps in the data submissions. This guidance should not be interpreted to mean that the Banks may acquire an asset or a pool of assets if the Banks cannot collect data items necessary for purposes of establishing the equivalent credit rating of such asset or pool of assets under proposed § 955.5(a).

G. Administrative and Investment Transactions Between Banks—Proposed § 955.8

Under the proposed rule, the provisions governing administrative and investment transactions between Banks, which currently are contained in § 955.5, would be relocated to § 955.8. *See* 12 CFR 955.5. Section 955.5(c) of the current rule states that a Bank that has delegated its AMA pricing function to another Bank shall retain a right to refuse to acquire AMA at prices it does not consider appropriate. 12 CFR 955.5(c). Under the AMA programs, one Bank can provide the back-office services for other Banks. Section 955.5(c) was included in the current rule to ensure that the other Banks are not obligated to acquire AMA at prices set by the Bank providing the back-office functions. The Banks have now experienced several years of participation in AMA programs, which have grown significantly in volume. The Finance Board seeks comment on whether § 955.5(c) is no longer necessary or appropriate now that the Banks have more experience and options relating to AMA programs.

H. Risk-Based Capital Requirement for AMA—Proposed § 955.9

The proposed rule would include a risk-based capital provision that specifies the type and amount of capital that a Bank must hold against AMA for which the estimated credit rating is less than the second highest category of

[9] The new data element ''Pool Credit Enhancement'' would replace the current data element ''Credit Enhancement,'' which itself has been redefined since the current rule was adopted. *See* n.6, *supra.* The Finance Board has effectively been collecting pool-level credit enhancement values because it aggregates the loan-level credit enhancement values currently collected. Standing alone, however, the loan-level credit enhancement values are not as meaningful as the pool-level values, and the Finance Board, therefore, is proposing to collect the pool-level values directly.

investment grade, *e.g.*, less than AA. Until a Bank implements its capital structure plan and complies with the capital requirements of 12 CFR part 932, it must hold retained earnings against any outstanding AMA with an estimated credit rating of less than the second highest category of investment grade. The amount to be held is to be determined in accordance with Table 1 set forth in the proposed rule, which assigns a factor to particular credit rating categories. This provision simplifies § 955.6(a) of the current rule by eliminating the provision that would allow Banks to also hold general allowance for losses in meeting their risk-based capital requirement. Because the Banks do not hold general allowance for losses, this provision has no practical effect. *See* 12 CFR 955.6(a).

The proposed rule also would make clear that a Bank's risk-based capital requirement for its AMA is governed by § 955.9 only until it has implemented its capital structure plan and has complied with the capital requirements of 12 CFR part 932. After that time, a Bank would be governed solely by part 932 with respect to the risk-based capital requirement for AMA. This provision codifies a position previously stated by the Finance Board. *See* final AMA rule, 65 FR at 43978.

The proposed rule also would make a technical correction to apply the risk-based capital requirement to multi-family AMA, as well as single-family AMA.

The proposed rule would delete current § 955.6(b) regarding the recalculation of the credit enhancement, as provisions for dealing with a decline in the estimated credit rating of an AMA asset or pool of assets would be included under proposed § 955.5(a)(4), discussed above.

I. Acquisition Restrictions on Certain Loans

The Finance Board seeks comment on whether it should take measures to prevent a Bank from acquiring loans or assets backed by loans, through its AMA program, where the loans have certain features or were made under circumstances that may be considered ''predatory'' or ''abusive.'' If the Finance Board seeks to limit the Banks' authority to acquire such loans, or assets backed by such loans, what specific measures would need to be incorporated in the rule? Among the issues on which the Finance Board seeks comments are:

(a) Whether the Finance Board should address concerns regarding the acquisition of loans or assets backed by loans where the loans have certain features or were made under circumstances that may be considered ''predatory'' or ''abusive,'' by adopting a new regulatory provision that would require each Bank to develop policies to preclude acquiring such loans, or assets backed by such loans;

(b) Whether the Finance Board should address the acquisition of loans or assets backed by loans where the loans have certain features or were made under circumstances that may be considered ''predatory'' or ''abusive,'' through specific and detailed guidance to each Bank, as other Federal financial institution regulators have done with respect to the institutions they regulate; and

(c) How loans covered by such regulation or guidance should be identified.

III. Paperwork Reduction Act

The Finance Board's information collection related to AMA assets under the current rule has been reviewed and authorized by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, as implemented by OMB in regulations at 5 CFR part 1320. The OMB control number is 3069–0058. As described more fully in part F of the **SUPPLEMENTARY INFORMATION** regarding information collection under the proposed section 955.7, the proposed rule makes a series of minor changes to the information presently collected under the current information collection. Because the information collection changes contained in this proposed rule are neither substantive nor material, no additional review or approval is required from OMB. Thus, the Finance Board has not submitted any information to OMB for review.

IV. Regulatory Flexibility Act

The proposed rule, if adopted as a final rule, will apply only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 900

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 932

Capital, Credit, Federal home loan banks, Housing, Investments, Reporting and recordkeeping requirements.

12 CFR Part 955

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby proposes to amend parts 900, 932 and 955, chapter IX, title 12, *Code of Federal Regulations*, to read as follows:

PART 900—GENERAL DEFINITIONS APPLYING TO ALL FINANCE BOARD REGULATIONS

1. The authority citation for part 900 continues to read as follows:

Authority: 12 U.S.C. 1422b(a).

2. Revise the definition of ''acquired member assets'' to read as follows:

§ 900.2 Terms relating to Bank operations, mission and supervision.

* * * * *

Acquired member assets or *AMA* means assets acquired in accordance with, and satisfying the applicable requirements of, §§ 955.3, 955.4 and 955.5 of this chapter.

* * * * *

PART 932—FEDERAL HOME LOAN BANK CAPITAL REQUIREMENTS

3. The authority citation for part 932 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1440, 1443, 1446.

§ 932.4 [Amended]

4. Amend the first sentence in § 932.4(e)(2)(ii)(E) by:

a. Removing the phrase ''described in § 955.2 of this chapter''; and

b. Removing ''§ 955.3'' and adding, in its place, ''§ 955.5''.

§ 932.9 [Amended]

5. Amend the first sentence of § 932.9(a)(3) by removing the phrase ''acquired member assets identified in § 955.2(a)(3) of this chapter or are otherwise''.

6. Revise part 955 to read as follows:

PART 955—ACQUIRED MEMBER ASSETS

Sec.

955.1 Definitions.
955.2 Authorization to invest in AMA.
955.3 Asset requirement.
955.4 Member or housing associate nexus requirement.
955.5 Credit risk-sharing requirements.
955.6 Restructuring of AMA.

955.7 Reporting requirements.
955.8 Administrative and investment transactions between Banks.
955.9 Risk-based capital requirement.

Appendix A to Part 955—Reporting Requirements for AMA That Are Single-Family Residential Mortgage Loans or Single-Family Residential Mortgage Loans Backing AMA
Appendix B to Part 955—Reporting Requirements for AMA That Are Multi-Family Residential Mortgage Loans or Multi-Family Residential Mortgage Loans Backing AMA

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1430, 1430b, 1431.

§ 955.1 Definitions.

As used in this part:

Acquired member assets or *AMA* means assets acquired in accordance with, and satisfying the applicable requirements of, §§ 955.3, 955.4 and 955.5.

AMA Product means an AMA structure defined by a specific set of terms and conditions.

Investment grade means a credit quality rating in one of the four highest credit rating categories provided by an NRSRO.

Pool means a group of assets acquired under a given master commitment or similar agreement.

Residential real property has the meaning set forth in § 950.1 of this chapter.

§ 955.2 Authorization to invest in AMA.

Each Bank is authorized to invest in assets that qualify as AMA, subject to the requirements of this part and part 980 of this chapter.

§ 955.3 Asset requirement.

Assets that qualify as AMA shall be limited to the following:

(a) Whole loans that are eligible to secure advances under §§ 950.7(a)(1)(i), (a)(2)(ii), (a)(4), or (b)(1) of this chapter, excluding:

(1) Single-family mortgage loans where the loan amount exceeds the limits established pursuant to 12 U.S.C. 1717(b)(2); and

(2) Loans made to an entity, or secured by property, not located in a state;

(b) Whole loans secured by manufactured housing, regardless of whether such housing qualifies as residential real property under state law; or

(c) Other assets that are created by a member or housing associate in cooperation with a Bank, where the assets are backed by whole loans that meet the requirements of paragraphs (a) or (b) of this section, provided that the Bank must initially acquire substantially all of such assets and the assets do not constitute interest only strips (IO), principal only strips (PO), or other interests in the underlying loans that have risk characteristics that are similar to IO or PO instruments.

§ 955.4 Member or housing associate nexus requirement.

(a) In the case of assets described in §§ 955.3(a) and (b), a Bank shall acquire the assets, by means of either a purchase or a funding transaction, only from:

(1) A member or housing associate of the Bank;

(2) A member of another Bank, pursuant to an arrangement with that other Bank; or

(3) Another Bank.

(b) In the case of assets described in § 955.3(c):

(1) The whole loans underlying the assets shall be acquired only from:

(i) A member or housing associate of the Bank;

(ii) A member of another Bank, pursuant to an arrangement with that other Bank; or

(iii) A Bank, if approved by the Finance Board under § 955.6; and

(2) The assets may be sold by a Bank only to other Banks or to members of any Bank.

§ 955.5 Credit risk-sharing requirements.

(a) *Required credit risk-sharing structure.* (1) *Product requirement.* For each AMA Product, the Bank shall implement, and have in place, a credit risk-sharing structure under which a member or housing associate provides the credit enhancement necessary to enhance an asset or pool of assets acquired by the Bank to a credit quality that is equivalent to investment grade.

(2) *Asset requirement.* For each AMA asset or pool of assets to be acquired, a Bank shall specify the particular credit rating within investment grade to which the credit quality of the asset or pool of assets shall be equivalent, after accounting for the credit enhancement provided by the member or housing associate.

(3) *Satisfaction of credit enhancement requirement.* For each AMA Product, prior to the acquisition of any asset or pool of assets and throughout the life of the asset or pool of assets on the Bank's books, the Bank shall have in place a process and methodology that, to the satisfaction of the Finance Board:

(i) Determines the applicable credit enhancement required under paragraphs (a)(1) and (a)(2) of this section; and

(ii) Demonstrates that the economic value of the credit enhancement provided by the member or housing associate is sufficient to meet the applicable credit enhancement required under paragraphs (a)(1) and (a)(2) of this section.

(4) *Decline in estimated credit rating.* If the estimated credit rating of an asset or pool of assets declines to a credit rating below the credit rating required by the Bank at the time of acquisition of the asset or pool of assets, the Bank, at its discretion, shall either:

(i) Require the member or housing associate to provide additional credit enhancement in an amount sufficient to restore the estimated credit rating for such asset or pool of assets; or

(ii) Recalculate, and comply with, the risk-based capital requirement for the asset or pool of assets in accordance with § 932.4 of this chapter or § 955.9, as applicable, based on the reduced estimated credit rating.

(b) *Credit enhancement requirements.* (1) *Members and housing associates.* The credit enhancement required under paragraphs (a)(1) and (a)(2) of this section shall be provided by:

(i) A member or housing associate of the Bank; or

(ii) With the approval of both Banks, a member or housing associate of another Bank.

(2) *Economic cost.* The member or housing associate that initially provides the required credit enhancement shall bear all of the economic consequences of the credit enhancement responsibility.

(3) *Direct obligations.* Any portion of the required credit enhancement that is a direct obligation of a member or housing associate of any Bank and that is not covered by insurance from a third party insurance company, shall be fully secured by collateral eligible to secure advances under part 950 of this chapter, except as otherwise provided in this paragraph. If a member or housing associate transfers such credit enhancement responsibility to another member or housing associate, the successor shall continue to satisfy the collateral requirement. In lieu of obtaining collateral to secure such direct obligations, a Bank may hold permanent capital (or retained earnings, if the Bank has not yet converted its capital structure) against the direct obligation in an amount equal to 100 percent of the nominal value of the direct obligation. This requirement shall apply in addition to the risk-based capital requirements under § 932.4 of this chapter or § 955.9, as applicable.

(4) *Mortgage insurance.* A member or housing associate may provide all or a portion of its required credit enhancement through mortgage

insurance purchased from an insurer that is rated not lower than the second highest credit rating. If the rating of the insurer falls below the second highest credit rating, the member or housing associate shall have 60 days to replace the insurer with another insurer rated not lower than the second highest credit rating.

(c) *Grandfathered transactions.* Assets acquired in transactions otherwise authorized by resolution of the Finance Board and that are within any total dollar cap established by the Finance Board at the time of such authorization, shall not be subject to the requirements of this section.

§ 955.6 Restructuring of AMA.

A Bank shall not alter the credit risk-sharing structure of any AMA that it has acquired, nor shall it take any actions with the intent or effect of altering the actual or putative credit rating of any such AMA, without the prior approval of the Finance Board. A Bank also shall not sell or otherwise use any AMA in order to create a new type of asset, including assets described in § 955.3(c), without prior Finance Board approval.

§ 955.7 Reporting requirements.

(a) *Bank responsibility for collecting and maintaining data.* Each Bank that has members or housing associates that have provided the initial credit enhancement for AMA, shall be responsible for collecting and maintaining the loan-level and pool-level data required by this section for all residential mortgage loans that constitute or otherwise back such AMA, including assets described in § 955.3(c).

(b) *Loan-level data elements.* The loan-level data collected and maintained by each Bank shall include the data elements specified in Appendix A, Parts I and II, or in Appendix B, Parts I and II.

(c) *Pool-level data elements.* The pool-level data collected and maintained by each Bank shall include the data elements specified in Appendix A, Part III, or in Appendix B, Part III.

(d) *Quarterly Mortgage Reports.* Beginning in calendar year 2004, each Bank that is required to collect and maintain data under this section shall be responsible for submitting such data to the Finance Board within 60 days of the end of each calendar quarter and in a machine-readable format specified by the Finance Board.

(e) *Additional reports.* The Finance Board may at any time require a Bank to submit reports in addition to those required under paragraph (d) of this section.

§ 955.8 Administrative and investment transactions between Banks.

(a) *Delegation of administrative duties.* A Bank may delegate the administration of an AMA Product to another Bank whose administrative office has been examined and approved by the Finance Board to process AMA transactions. Prior to entering into any AMA-related agreements with a member or housing associate, a Bank shall disclose the existence of any such delegation, or the possibility that the Bank may later make such a delegation.

(b) *Terminability of agreements.* Any agreement made between two or more Banks in connection with any AMA Product shall be made terminable by either party after a reasonable notice period.

(c) *Delegation of pricing authority.* A Bank that has delegated its AMA pricing function to another Bank shall retain a right to refuse to acquire AMA at prices it does not consider appropriate.

§ 955.9 Risk-based capital requirement.

(a) *General.* Until a Bank implements its capital structure plan and complies with part 932 of this chapter, it shall hold retained earnings against any outstanding AMA for which the estimated credit rating is less than the second highest category of investment grade.

(b) *Requirement.* The amount of retained earnings to be held under this section shall be at least equal to the product of the outstanding balance of the AMA and the factor associated with its putative credit rating, as set forth in Table 1 of this section.

TABLE 1

Putative credit rating of AMA	Percentage applicable to on-balance sheet equivalent value of AMA
Third Highest Investment Grade	0.90
Fourth Highest Investment Grade	1.50
If Downgraded to Below Investment Grade After Acquisition By Bank:	
Highest Below Investment Grade	2.25
Second Highest Below Investment Grade	2.60
All Other Below Investment Grade	100.00

Appendix A to Part 955—Reporting Requirements for AMA That Are Single-Family Residential Mortgage Loans or Single-Family Residential Mortgage Loans Backing AMA

Part I—Fields To Be Reported for All Such Loans Acquired During the Calendar Quarter

1. *Bank District Flag*—Two-digit code designating the District Bank where the member institution that initially provides the credit enhancement for the AMA is located.
2. *Program Type*—Two-digit code, as designated by the Finance Board, identifying AMA Program type (*e.g.*, MPP–FHA; MPF–100, etc.).
3. *Loan Number*—Bank assigned numeric identifier, unique to each mortgage loan within a Bank's AMA portfolio.
4. *Pool Number*—Bank assigned numeric identifier for the pool in which the mortgage loan is a part; the Pool Number should be unique within a Bank's AMA portfolio.
5. *U.S. Postal State*—Two-digit Federal Information Processing Standard (FIPS) code for the property.
6. *U.S. Postal Zip Code*—Five-digit zip code for the property.
7. *MSA Code*—Five-digit code for the property's Metropolitan Statistical Area (MSA).
8. *County*—Three-digit FIPS code for the property's county, as designated in the most recent decennial census by the Bureau of the Census.
9. *Census Tract/Block Numbering Area (BNA)*—Tract/BNA number for the property as used in the most recent decennial census by the Bureau of the Census.
10. *Borrower(s) Annual Income*—Combined income of all borrowers at the time of mortgage loan origination.
11. *Acquisition Unpaid Principal Balance (UPB)*—UPB in whole dollars of the mortgage loan when the loan was first acquired by a Bank, or of each mortgage loan backing an asset when such asset was first acquired by a Bank.
12. *Loan-to-Value (LTV) Ratio at Origination*—LTV ratio of the mortgage loan at the time of origination.
13. *Date of Mortgage Loan*—Date the mortgage loan was originated.
14. *Date of Acquisition*—Date a Bank first acquires the mortgage loan, or the asset backed by the mortgage loan.
15. *Purpose of Mortgage Loan*—Code indicating the purpose of the mortgage loan (*e.g.*, purchase money mortgage, refinancing, construction mortgage, property rehabilitation).
16. *Product Type*—Code indicating the product type of the mortgage (*e.g.*, fixed rate mortgage, adjustable rate mortgage (ARM), balloon mortgage, graduated payment mortgage (GPM) or growing equity mortgage (GEM), reverse annuity mortgage, or other).
17. *Federal Insurance or Guarantee*—Code that indicates whether any part of the mortgage loan has Federal insurance or a Federal guarantee, and from which agency.
18. *Primary Mortgage Insurance Percent*—Percent of loan balance at origination covered by private and/or government mortgage insurance.

19. *Term of Mortgage at Origination*—Term of the mortgage loan at the time of origination, in months.

20. *Amortization Term*—For amortizing mortgage loans, the amortization term of the mortgage loan, in months.

21. *FHFBID Number*—Federal Housing Finance Board Identification Number of the member institution that initially provides the credit enhancement for the AMA.

22. *Number of Borrowers*—Number of borrowers at the time of origination.

23. *First-Time Home Buyers*—Code indicating whether the mortgagor(s) are first-time homebuyers.

24. *Borrower Race*—Code indicating the race of the borrower (*e.g.*, Asian, Native Hawaiian or Other Pacific Islander). Codes are to be consistent with the race codes used in the latest decennial census.

25. *Borrower Ethnicity*—Code indicating the ethnicity of the borrower (*i.e.*, ''Hispanic or Latino'' or ''Not Hispanic or Latino''), consistent with the latest decennial census ethnicity codes.

26. *Co-Borrower Race*—Code indicating the race of the co-borrower (*e.g.*, Asian, Native Hawaiian or Other Pacific Islander). Codes are to be consistent with the race codes used in the latest decennial census.

27. *Co-Borrower Ethnicity*—Code indicating the ethnicity of the co-borrower (*i.e.*, ''Hispanic or Latino'' or ''Not Hispanic or Latino''), consistent with the latest decennial census ethnicity codes.

28. *Borrower Gender*—Code that indicates whether the borrower is male or female.

29. *Co-Borrower Gender*—Code that indicates whether the co-borrower is male or female.

30. *Age of Borrower*—Age of borrower, in years, at the time of mortgage loan origination.

31. *Age of Co-Borrower*—Age of co-borrower, in years, at the time of mortgage loan origination.

32. *Occupancy Code*—Code that indicates whether the mortgaged property is an owner-occupied principal residence, or a rental investment property.

33. *Number of Units*—Number of units in the mortgaged property (*i.e.*, one to four).

34. *Unit—Number of Bedrooms*—Four separate fields indicating, where the property contains non-owner-occupied dwelling units, the number of bedrooms in each of those units.

35. *Unit—Reported Rent Level*—Four separate fields indicating, where the property contains non-owner-occupied dwelling units, the rent level for each unit in whole dollars.

36. *Unit—Reported Rent Level Plus Utilities*—Four separate fields indicating, where the property contains non-owner-occupied dwelling units, the rent level plus the utility cost for each unit in whole dollars.

37. *Unit—Owner-Occupied*—Four separate fields indicating whether each of the units is owner-occupied.

38. *Original Interest Rate*—Interest rate on the loan at the time of origination.

39. *Loan Amount*—Mortgage loan balance at the time of origination.

40. *Front-end Ratio*—Ratio of principal, interest, taxes, and insurance to Borrower(s) Annual Income at the time of origination.

41. *Back-end Ratio*—Ratio of all debt payments to Borrower(s) Annual Income at the time of origination.

42. *Type of Credit Score*—Code indicating borrower(s)'credit score type (*i.e.*, Fair, Isaacs, Co. (FICO) or NextGen FICO).

43. *Borrower Credit Score*—The Fair, Isaacs, Co. (FICO) or NextGen FICO credit score of borrower at the time of mortgage loan origination.

44. *Co-Borrower Credit Score*—The Fair, Isaacs, Co. (FICO) or NextGen FICO credit score of co-borrower at the time of mortgage loan origination.

45. *Self-Employed Indicator*—Code indicating whether the borrower was self-employed at the time of mortgage loan origination.

46. *Property Type*—Code indicating the type of property (*e.g.*, single-family detached, condominium, PUD).

47. *ARM Index*—For ARMs only, index used for the calculation of interest on an ARM.

48. *ARM Margin*—For ARMs only, margin added to the index used for the calculation of the interest on an ARM.

49. *Adjustment Frequency*—For ARMs only, interest rate adjustment frequency in months.

50. *Negative Amortization*—For ARMs only, code indicating if amortization is negative.

51. *Prepayment Penalty Date*—Date that the application of a prepayment penalty ends.

Part II—Fields To Be Reported for All Such Loans That Are Outstanding in the Calendar Quarter

52. *Bank District Flag*—Two-digit code designating the District Bank where the member institution that initially provides the credit enhancement for the AMA is located.

53. *Loan Number*—Bank assigned numeric identifier, unique to each mortgage loan within a Bank's AMA portfolio.

54. *Delinquency Status*—Code indicating the delinquency status of the mortgage loan at the end of the calendar quarter.

55. *Termination Date*—For mortgage loans that terminated during the calendar quarter, date on which the mortgage loan terminated.

56. *Termination Type*—For mortgage loans that terminated during the calendar quarter, code indicating the reason for the mortgage loan termination (*e.g.*, prepayment, foreclosure).

57. *Current Unpaid Principal Balance (UPB)*—UPB on the mortgage loan at the end of the calendar quarter.

58. *Current Coupon*—For ARMs only, mortgage interest rate on the mortgage loan at the end of the calendar quarter.

Part III—Fields To Be Reported for Pools of Such Loans

59. *Bank District Flag*—Two-digit code designating the District Bank where the member institution that initially provides the credit enhancement for the AMA is located.

60. *Pool Number*—Bank assigned numeric identifier for the pool in which the mortgage loan is a part; the Pool Number should be unique within a Bank's AMA portfolio.

61. *Participation Percentages*—Twelve separate fields indicating each Bank's percentage participation in the AMA-eligible pool or asset backed by such a pool, as of the date the Bank acquires any portion of the pool or asset.

62. *Pool Rating*—For pools of mortgage loans or assets backed by such mortgage loans, the putative or actual letter credit rating of the pool as of the date the Bank acquires any portion of the pool or asset backed by such pools.

63. *Pool Credit Enhancement*—The dollar amount of the credit enhancement required to bring the pool to the credit rating as specified by the Bank.

64. *Recalculated Pool Rating*—For pools of mortgage loans where the credit enhancement is recalculated during the calendar quarter, the recalculated putative or actual letter credit rating using the initial amount of the Pool Credit Enhancement.

65. *Recalculated Credit Enhancement*—For pools of mortgage loans that have the credit enhancement recalculated during the calendar quarter, the dollar amount of the credit enhancement required to bring the pool to the initial putative or actual letter credit rating.

Appendix B to Part 955—Reporting Requirements for AMA That Are Multi-Family Residential Mortgage Loans or Multi-Family Residential Mortgage Loans Backing AMA

Part I—Fields To Be Reported for All Such Loans Acquired During the Calendar Quarter

1. *Bank District Flag*—Two-digit code designating the District Bank where the member institution that initially provides the credit enhancement for the AMA is located.

2. *Program Type*—Two-digit code, as designated by the Finance Board, identifying AMA Program type.

3. *Loan Number*—Bank assigned numeric identifier, unique to each mortgage loan within a Bank's AMA portfolio.

4. *Pool Number*—Bank assigned numeric identifier, for the pool in which the mortgage loan is a part; the Pool Number should be unique within a Bank's AMA portfolio.

5. *U.S. Postal State*—Two-digit Federal Information Processing Standard (FIPS) code for the property.

6. *U.S. Postal Zip Code*—Five-digit zip code for the property.

7. *MSA Code*—Five-digit code for the property's Metropolitan Statistical Area (MSA).

8. *County*—Three-digit FIPS code for the property's county, as designated in the most recent decennial census by the Bureau of the Census.

9. *Census Tract/Block Numbering Area (BNA)*—Tract/BNA number for the property as used in the most recent decennial census by the Bureau of the Census.

10. *Acquisition Unpaid Principal Balance (UPB)*—UPB in whole dollars of the mortgage loan when the loan was first acquired by a Bank, or of each mortgage loan backing an asset when such asset was first acquired by a Bank.

11. *Original Interest Rate*—Interest rate on the loan at the time of origination.

12. *Loan Amount*—Mortgage loan balance at the time of origination.

13. *Loan-to-Value (LTV) Ratio at Origination*—LTV ratio of the mortgage loan at the time of origination.

14. *Date of Mortgage Loan*—Date the mortgage loan was originated.

15. *Date of Acquisition*—Date a Bank first acquires the mortgage loan or the asset backed by the mortgage loan.

16. *Purpose of Mortgage Loan*—Code indicating the purpose of the mortgage loan (*e.g.*, purchase money mortgage, refinancing, construction mortgage, property rehabilitation).

17. *Cooperative Project Loan*—Code indicating whether the mortgage loan is a project loan on a cooperative housing building.

18. *Mortgagor Type*—Code indicating the type of mortgagor (*i.e.*, an individual, a for-profit entity such as a corporation or partnership, a nonprofit entity such as a corporation or partnership, a public entity, or other type of entity).

19. *Product Type*—Code indicating the product type of the mortgage (*e.g.*, fixed rate mortgage, adjustable rate mortgage (ARM), balloon mortgage, graduated payment mortgage (GPM) or growing equity mortgage (GEM), reverse annuity mortgage, or other).

20. *Construction Loan*—Code indicating whether the mortgage is for a construction loan.

21. *Federal Insurance or Guarantee*—Code that indicates whether any part of the mortgage loan has Federal insurance or a Federal guarantee, and from which agency.

22. *Primary Mortgage Insurance Percent*—Percent of loan balance at origination covered by private and/or government mortgage insurance.

23. *FHA Risk Share Percent*—The percentage of the risk assumed for the mortgage purchased under a risk-sharing arrangement with FHA.

24. *Mortgage Purchased under the Banks' Community Investment Cash Advances (CICA) Programs*—Code indicating whether the mortgage is on a project under an AHP, CIP or other CICA program.

25. *Term of Mortgage at Origination*—Term of the mortgage loan at the time of origination, in months.

26. *Amortization Term*—For amortizing mortgage loans, the amortization term of the mortgage loan, in months.

27. *FHFBID Number*—Federal Housing Finance Board Identification Number of the member institution that initially provides the credit enhancement for the AMA.

28. *Number of Units*—The number of units in the mortgaged property.

29. *Public Subsidy Program*—Code indicating whether the mortgaged property is involved in a public subsidy program and which level(s) of government are involved in the subsidy program (*i.e.*, Federal government only, other only, Federal government, etc.).

30. *Unit Class Level*—The following data apply to unit types in a particular mortgaged property. The unit types are defined by the Banks for each property and are differentiated based on the number of bedrooms in the units and on the average contract rent for the units. A unit type must be included for each bedroom size category in the property:

A. *Unit Type XX-Number of Bedroom(s)*—The number of bedrooms in the unit type;

B. *Unit Type XX-Number of Unit*—The number of units in the property within the unit type;

C. *Unit Type XX-Average Reported Rent Level*—The average rent level for the unit type in whole dollars;

D. *Unit Type XX-Average Reported Rent Plus Utilities*—The average reported rent level plus the utility cost for each unit in whole dollars; and

E. *Unit Type XX-Tenant Income Indicator*—Indicates whether the tenant's income is less than 60 percent of area median income, greater than or equal to 60 percent but less than 80 percent of area median income, greater than or equal to 80 percent but less than 100 percent of area median income, or greater than or equal to 100 percent of area median income.

31. *Debt Service Coverage Ratio*—Ratio of net operating income to debt service.

32. *ARM Index*—For ARMs only, index used for the calculation of interest on an ARM.

33. *ARM Margin*—For ARMs only, margin added to the index used for the calculation of the interest on an ARM.

34. *Adjustment Frequency*—For ARMs only, interest rate adjustment frequency in months.

35. *Negative Amortization*—For ARMs only, code indicating if amortization is negative.

36. *Prepayment Penalty Date*—Date that the application of a prepayment penalty ends.

Part II—Fields To Be Reported for All Such Loans That Are Outstanding in the Calendar Quarter

37. *Bank District Flag*—Two-digit code designating the District Bank where the member institution that initially provides the credit enhancement for the AMA is located.

38. *Loan Number*—Bank assigned numeric identifier, unique to each mortgage loan within a Bank's AMA portfolio.

39. *Delinquency Status*—Code indicating the delinquency status of the mortgage loan at the end of the calendar quarter.

40. *Termination Date*—For mortgage loans that terminated during the reporting period, date on which the mortgage loan terminated.

41. *Termination Type*—For mortgage loans that terminated during the calendar quarter, code indicating the reason for the mortgage loan termination (*e.g.*, prepayment, foreclosure).

42. *Current Unpaid Principal Balance (UPB)*—UPB on the mortgage loan at the end of the calendar quarter.

43. *Current Coupon*—For ARMs only, mortgage interest rate on the mortgage loan at the end of the calendar quarter.

Part III—Fields To Be Reported for Pools of Such Loans

44. *Bank District Flag*—Two-digit code designating the District Bank where the member institution that initially provides the credit enhancement for the AMA is located.

45. *Pool Number*—Bank assigned numeric identifier for the pool of which the mortgage loan is a part; the Pool Number should be unique within a Bank's AMA portfolio.

46. *Participation Percentages*—Twelve separate fields indicating each Bank's percentage participation in the AMA-eligible pool or asset backed by such a pool, as of the date the Bank acquires any portion of the pool or asset.

47. *Pool Rating*—For pools of mortgage loans or assets backed by such mortgage loans, the putative or actual letter credit rating of the pool as of the date the Bank acquires any portion of the pool or asset backed by such pools.

48. *Pool Credit Enhancement*—The dollar amount of the credit enhancement required to bring the pool to the credit rating as specified by the Bank.

49. *Recalculated Pool Rating*—For pools of mortgage loans where the credit enhancement is recalculated during the calendar quarter, the recalculated putative or actual letter credit rating using the initial amount of the Pool Credit Enhancement.

50. *Recalculated Credit Enhancement*—For pools of mortgage loans that have the credit enhancement recalculated during the calendar quarter, the dollar amount of the credit enhancement required to bring the pool to the initial putative or actual letter credit rating.

Dated: June 19, 2003.

The Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 03–16477 Filed 6–30–03; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I

Meetings of the No Child Left Behind Negotiated Rulemaking Committee

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Announcement of negotiated rulemaking committee meetings.

SUMMARY: The Secretary of the Interior has established an advisory Committee to develop recommendations for proposed rules for Indian education under six sections of The No Child Left Behind Act of 2001. As required by the Federal Advisory Committee Act, we are announcing dates and locations of the next three meetings of the No Child Left Behind Negotiated Rulemaking Committee.

DATES AND ADDRESSES: The Committee's next three meeting dates and locations are :

July 14–18, 2003 Minneapolis, MN Marriott Airport Hotel, 2020 East 79th Street, Bloomington, MN 55425 (beginning July 14 at 1:30 p.m. CDT and ending July 18 at 12 noon CDT)

August 21–24, 2003 Seattle, WA Grand Hyatt Hotel, 721 Pine Street, Seattle, WA 98101 September 15–19, 2003 Nashville, TN Opryland Hotel, 2800 Opryland Drive, Nashville, TN, 37214.

FOR FURTHER INFORMATION CONTACT: Barbara James or Shawna Smith, No Child Left Behind Negotiated Rulemaking Project Management Office, PO Box 1430, Albuquerque, NM 87103–1430; telephone (505) 248–7241; fax (505) 248–7242; e-mail *bjames@bia.edu* or *ssmith@bia.edu.* We will post additional information as it becomes available on the Office of Indian Education Programs Web site under ''Negotiated Rulemaking'' at *http//www.oiep.bia.edu.*

SUPPLEMENTARY INFORMATION: The No Child Left Behind Negotiated Rulemaking Committee is an advisory committee formed under the No Child Left Behind Act of 2001, the Negotiated Rulemaking Act, and the Federal Advisory Committee Act. The purpose of the Committee is to negotiate and reach consensus on recommendations for proposed rules for Indian education under six sections of The No Child Left Behind Act of 2001. For more information on negotiated rulemaking under The No Child Left Behind Act, see the **Federal Register** notices published on December 10, 2002 (67 FR 75828) and May 5, 2003 (68 FR 23631) or the Web site at *http//www.oiep.bia.edu* under ''Negotiated Rulemaking.''

At the next three meetings the Committee will divide into the four work groups established by the Committee at its last meeting. The work groups are: Student Rights and Geographic Boundaries; Tribally Controlled Schools Act/Grants; Adequate Yearly Progress; and Funding and Distribution of Funds. The Committee will also meet in full session each day for work group reports and logistics. All meetings are open to the public. There is no requirement for advance registration for members of the public who wish to attend and observe the Committee meetings or the work group meetings or to make public comments. The agenda for the July 14–18, 2003, meeting is as follows:

Agenda for No Child Left Behind Negotiated Rulemaking Committee Meeting, July 14–18, 2003

July 14

Opening—1:30 p.m.
Committee meeting—Introductions, Logistics, and Housekeeping
Work Group meetings

July 15

Public comments—8:30 a.m.
Committee meeting
Work group reports
Work group meetings

July 16

Public comments—8:30 a.m.
Committee meeting
Work group reports
Work group meetings

July 17

Public comments—8:30 a.m.
Committee meeting
Work group reports
Work group meetings

July 18

Public comments—8:30 a.m.
Committee meeting—set agenda for next meeting
Closing—noon

It is necessary to hold this meeting at this time to meet the mandated date for publishing the proposed rule. Due to scheduling conflicts, we could not finalize the meeting arrangements in time to publish this notice more than 15 days before the start of the meeting.

Dated: June 25, 2003.

Aurene M. Martin,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 03–16578 Filed 6–26–03; 2:11 p.m.]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA31

Customer Identification Programs for Financial Institutions

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of inquiry.

SUMMARY: The Department of the Treasury seeks additional comments from all interested persons on two discrete issues relating to final regulations issued recently pursuant to section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001: Whether and under what circumstances financial institutions should be required to retain photocopies of identification documents relied on to verify customer identity; and, whether there are situations when the regulations should preclude reliance on certain forms of foreign government-issued identification to verify customer identity.

DATES: Written comments may be submitted on or before July 31, 2003.

ADDRESSES: Commenters are strongly encouraged to submit comments by accessing the following Department of the Treasury Internet site: *http://regcomments.treasury.gov.*

Comments may also be sent by electronic mail as follows: Electronic mail comments relating to the recordkeeping requirement (as described in section II(A) below), should be sent to *recordkeeping@regcomments.treasury.gov* with the caption in the body of the text, ''Section 326 Notice of Inquiry: Recordkeeping.'' Electronic mail comments relating to documentary verification of identity (as described in section II(B) below) should be sent to *identification@regcomments.treasury.gov* with the caption in the body of the text, ''Section 326 Notice of Inquiry: Identification.'' Commenters are requested to distinguish between the two issues and submit comments to the appropriate e-mail address.

Comments also may be submitted by paper mail (preferably an original plus three copies). For comments relating to the recordkeeping requirement (as described in section II(A) below), paper mail comments should be sent to: 326 Recordkeeping Comments, U.S. Department of the Treasury, Office of the General Counsel, 1500 Pennsylvania Avenue, NW., Washington, DC 20220–0002.

For comments relating to documentary verification of identity (as described in section II(B) below), paper mail comments should be sent to: 326 Identification Comments, U.S. Department of the Treasury, Office of the General Counsel, 1500 Pennsylvania Avenue, NW., Washington, DC 20220–0002.

Please send comments by one method only. Commenters should not include materials or information in comments that they do not wish to be made available to the public. Comments may be inspected at the Department of the Treasury between 10 a.m. and 4 p.m. beginning approximately July 11, 2003. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 622–0990 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel at (202) 622–1927.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT

ACT) Act of 2001 (Pub. L. 107–56) (the Act). Title III of the Act made a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (BSA), which are codified in subchapter II of chapter 53 of title 31, United States Code.[1] These amendments are intended to promote the prevention, detection, and prosecution of money laundering and the financing of terrorism.

Section 326 of the Act added a new subsection (l) to 31 U.S.C. 5318 of the BSA that requires the Secretary of the Treasury (Secretary) to prescribe regulations ''setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution.'' For any financial institution engaged in financial activities described in section 4(k) of the Bank Holding Company Act of 1956 (section 4(k) institutions), the Secretary is required to prescribe the regulations issued under section 326 jointly with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, the federal functional regulators).

Section 326 of the Act provides that the regulations must require, at a minimum, financial institutions to implement reasonable procedures for (1) verifying the identity of any person seeking to open an account, to the extent reasonable and practicable; (2) maintaining records of the information used to verify the person's identity, including name, address, and other identifying information; and (3) determining whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency. In prescribing these regulations, section 326 of the Act directs the Secretary to take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.

On May 9, 2003, the Department of the Treasury (Treasury), through the Financial Crimes Enforcement Network (FinCEN), together with the federal functional regulators, published final rules implementing section 326.[2] These regulations require Federally regulated banks, securities broker-dealers, mutual funds, and futures commission merchants and introducing brokers to establish reasonable procedures for the identification and verification of new accountholders. Although separate rules were issued for the various types of financial institutions, the substantive requirements of the rules are intended to be the same.

The final rules require financial institutions to develop a customer identification program (''CIP'') that includes risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. Among other things, the CIP must enable the financial institution to form a reasonable belief that it knows the true identity of the customer. Financial institutions must develop their CIP to minimize the relevant risks, including those presented by the types of accounts maintained by the institution, the various methods of opening accounts, the types of identifying information available, as well as the financial institution's size, location, and type of business or customer base.

The rules implementing section 326 became effective on June 9, 2003, although financial institutions have until October 1, 2003 to come into compliance.

II. Request for Comments

The CIP implemented pursuant to the section 326 final rules will form an integral part of a financial institution's efforts to detect and prevent money laundering and the financing of terrorism. Moreover, the information collected and maintained by financial institutions is designed to provide an effective audit trail should an investigation be conducted. Since publishing the final regulations, concerns have been raised about two provisions relating to recordkeeping and the acceptance of certain forms of identification. As a result of these concerns, and as part of Treasury's continuing efforts to ensure that BSA regulations strike the appropriate balance between the burdens imposed on the financial system and the prevention of money laundering and the financing of terrorism, Treasury seeks additional input on the two provisions.

A. Recordkeeping Requirement

The final rules implementing section 326 permit financial institutions to verify customer identity through both documentary and non-documentary means. In proposed rules issued in July of 2002, Treasury and the federal functional regulators included a new requirement that, when a financial institution relies on a document—such as an identification card—to verify identity, the financial institution must make and maintain a photocopy of that document.[3] Virtually all of the substantial number of comments relating to this provision were critical of the requirement.[4] In light of these comments and the terms of section 326 of the Act, Treasury and the federal functional regulators eliminated the photocopy requirement in the final rule, instead requiring financial institutions to make and maintain a record of the description of any document upon which the financial institution relies to verify customer identity. The description must include the type of document, any identification number contained in the document, the place of issuance, and, if any, the date of issuance and expiration date. While financial institutions are not required to maintain photocopies of identification documents relied upon in all cases, Treasury has noted publicly that, so long as it is consistent with any applicable laws, financial institutions may want to retain a photocopy of identification documents in instances where risk factors are present.

Treasury seeks additional comment on whether and under what circumstances financial institutions should be required to make and maintain photocopies of identification

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

[2] See 68 FR 25089–25162. In addition to the joint rules, FinCEN also issued separately a rule applicable to various state-chartered banks lacking a federal functional regulator.

[3] *See, e.g.,* 67 FR 48290, 48299 (proposed section 103.121(b)(3)(B)).

[4] Commenters raised several arguments against the photocopy requirement, including: (1) The difficulty and burden of storing and retrieving copies of documents; (2) the fact that many kinds of identification documents, particularly some new driver's licenses, have security features that prevent them from being copied legibly; (3) the difficulty of safeguarding copies, which could facilitate identity theft; (4) the fact that this requirement would substantially deviate from current banking practice and would violate certain state laws; (5) the difficulty for banks offering credit card accounts through retailers, which require the customer to provide identifying documents at the point of sale, in complying with such a requirement, especially given the reduced risks of money-laundering and the financing of terrorism through retail store credit cards; and (6) the potential for claims of unlawful discrimination, especially since the banking regulators have discouraged the practice of retaining photocopies when extending credit.

documents used to verify the identity of customers. In particular:

1. Should the regulations require financial institutions to make and maintain a photocopy of identification documents upon which the financial institution relies to verify identity in all cases?

2. Should the regulations identify specific instances in which photocopies of documents relied upon must be made and maintained?

3. Should the regulations provide guidance to financial institutions concerning risk factors indicating when photocopying identification documents relied upon may be appropriate?

The views of law enforcement, the industry, and others are sought, even if such views have been expressed previously in connection with the proposed rulemakings. This inquiry focuses on the recordkeeping requirements when a financial institution relies on documents to verify identity.

B. Documentary Verification of the Identity of Foreign Individuals

Under the risk-based approach of both the proposed and final rules, to the extent documents are used, financial institutions are given some discretion to determine which documentary forms of identification may be used to verify the identity of foreign individuals who seek to open an account. First, the final rules require financial institutions to obtain an identification number from all customers. For a non-U.S. person, an institution must obtain one or more of the following: a taxpayer identification number (social security number, individual taxpayer identification number, or employer identification number); passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. Noting the absence of a uniform, standard identification number that non-U.S. persons could provide to financial institutions,[5] Treasury and the federal functional regulators permitted financial institutions to choose among a variety of identification numbers that it may accept from a non-U.S. person, provided that the identifying information the institution accepts must permit the institution to form a reasonable belief that it knows the true identity of the customer.

Second, financial institutions must set forth the types of documentary identification that they will accept to verify identity. Financial institutions are encouraged to use multiple forms of identification to minimize risks. The final rules provide an illustrative list of identification documents that may be used. For an individual, these may include an unexpired government-issued identification evidencing nationality or residence and bearing a photograph or similar safeguard, such as a driver's license or passport.

Treasury and the federal functional regulators emphasized that the final rules neither endorsed nor prohibited a financial institution's acceptance of particular types of identification documents issued by foreign governments. Instead, a financial institution must decide for itself, based upon consideration of the appropriate risk factors, whether the information presented by a customer is reliable.

Ensuring the appropriate identification of all persons opening accounts at financial institutions, including non-U.S. citizens, is a significant goal of the final regulations. Therefore, Treasury seeks additional comment on whether there are situations in which the regulations should preclude reliance on certain forms of foreign government-issued identification to verify customer identity. The regulations presently rely on financial institutions to determine which forms of foreign-issued identification to accept and under what circumstances, in light of the risks associated with each form of identification.

1. Should the regulations preclude financial institutions' reliance on certain forms of identification issued by certain foreign governments?

2. Should the regulations require financial institutions to obtain a passport number from all customers who are non-U.S. citizens?

a. What are the anticipated effects on non-U.S. citizens in the United States who are not required to have a passport?

b. What are the anticipated effects on non-U.S. citizens who open accounts from abroad, and thus are not required to have a passport?

3. Is there sufficient empirical information to enable Treasury to assess the utility of the various forms of foreign-issued identification for purposes of accurately identifying the holder?

4. What would the impact be on the use of the conventional financial system if financial institutions were prohibited from accepting certain forms of government-issued identification?

The views of law enforcement, the industry, and others are sought, even if such views have been expressed previously in connection with the proposed rulemakings.

The purpose of this Notice of Inquiry is to solicit further comment on the two issues outlined above and to enhance the administrative record. Only after considering all comments received in response to this notice of inquiry will Treasury determine whether to discuss with the federal functional regulators if it would be appropriate to jointly propose amendments to the final rules published on May 9, 2003, through a notice of proposed rulemaking. Financial institutions covered by the final rules are reminded of their obligation to be in compliance with the final rules by October 1, 2003.

III. Procedural Requirements

This document has been reviewed by the Office of Management and Budget as a significant regulatory action under Executive Order 12866.

Dated: June 25, 2003.

David D. Aufhauser,

General Counsel.

[FR Doc. 03–16562 Filed 6–30–03; 8:45 am]

BILLING CODE 4810–25–P

[5] Treasury previously issued a report to Congress discussing the absence of a single identification number for non-U.S. persons. *See* Treasury Department, ''A Report to Congress in Accordance with Section 326(b) of the USA PATRIOT Act,'' October 21, 2002.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–122–1–7613; FRL–7520–8]

Determination of Nonattainment as of November 15, 1996, and November 15, 1999, and Reclassification of the Beaumont/Port Arthur Ozone Nonattainment Area; State of Texas; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The United States Environmental Protection Agency is extending the comment period for a proposed action published Thursday, June 19, 2003 (68 FR 36756). On June 19, 2003, the EPA: proposed to withdraw our final approval of BPA's 2007 attainment demonstration State Implementation Plan (SIP), the motor vehicle emission budget (MVEB), the mid-course review commitment (MCR), our finding that BPA implemented all RACM; and withdrew the extension of the attainment date to 2007 and our

approval of the transport demonstration. Further, we proposed to issue a finding that BPA has failed to attain the 1-hour ozone national ambient air quality standard (NAAQS) by November 15, 1996, the attainment date for moderate nonattainment areas set forth in the Act. If EPA takes final action on this finding of failure to attain, the area would be reclassified as ''serious'' and if EPA issues a final notice of reclassification of the area to serious, EPA proposed in the alternative two options for identifying the appropriate attainment date for the area. Under Option 1, EPA proposed an additional finding that the area failed to attain the 1-hour ozone standard by November 15, 1999, the attainment date for serious nonattainment areas. If EPA takes final action on this finding, the area would therefore be reclassified as a severe 1-hour ozone nonattainment area, with an attainment date of no later than November 15, 2005. Alternatively, under Option 2, the EPA is proposing to reclassify BPA to a serious 1-hour ozone nonattainment area, and retain that classification with an attainment date of no later than November 15, 2005, thereby giving the State a prospective opportunity as a serious area to attain the standard. Under either alternative, we proposed the schedule for Texas to submit a revised SIP, a new MVEB, and a re-analysis of RACM. We further proposed to adjust the dates by which the area must meet the rate-of-progress (ROP) requirements and adjust contingency measure requirements as they relate to the ROP requirements.

The South East Texas Regional Planning Commission (SETRPC) submitted a letter requesting a 30-day extension to the comment period. SETRPC stated they need that time to solicit and develop meaningful comments due to the magnitude and significant ramifications of the proposed decision. At the request of the SETRPC, the EPA is extending the comment period for 30 days.

DATES: The comment period is extended until August 20, 2003.

ADDRESSES: Comments on this action can be mailed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202–2733 or e-mailed to *diggs.thomas@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Pratt, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Telephone Number (214) 665–2140, e-mail Address: *pratt.steven@epa.gov.*

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 23, 2003.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 03–16582 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–P–7633]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet.	
				*(NGVD) Existing	♦(NAVD) Modified
IA	Ames (City) Story County.	College Creek	Approximately 1,400 feet downstream of South Dakota Avenue.	None	*976
			Approximately 600 feet upstream of Wilder Boulevard.	None	*1,016
		Skunk River	Approximately 200 feet downstream of Ken Maril Road.	*873	*874
			Approximately 3 miles upstream of E. 13th Street.	None	*904
		Squaw Creek	Approximately 2,000 feet downstream of S. Duff Avenue.	*884	*885
			Approximately 2,600 feet upstream of confluence with Onion Creek.	None	*911
Maps are available for inspection at the Department of Planning and Housing, City Hall, Room 214, 515 Clark Avenue, Ames, Iowa. Send comments to The Honorable Ted Tedesco, Mayor, City of Ames, 515 Clark Avenue, Ames, Iowa 50010.					
IA	La Porte City (City) Black Hawk County.	Cedar River	Approximately 2,100 feet downstream of La Porte Road.	None	*814
			Approximately 6,500 feet upstream of La Porte Road.	None	*815
		Wolf Creek	Approximately 2,100 feet downstream of Illinois Central Gulf Railroad.	*816	*815
			Approximately 7,550 feet upstream of Main Street.	None	*824
		Wolf Creek Overflow	Approximately 2,700 feet downstream of Illinois Central Gulf Railroad.	None	*815
			Approximately 1,750 feet upstream of Commercial Street.	None	*823
Maps are available for inspection at the City Hall, 202 Main Street, La Porte City, Iowa. Send comments to The Honorable Rick Lubben, Mayor, City of La Porte City, City Hall, 202 Main Street, La Porte City, Iowa 50651.					
MO	Albany (City) Gentry County.	East Fork Grand River		*847	*848
Maps are available for inspection at City Hall, 106 East Clay Street, Albany, Missouri. Send comments to The Honorable John Rieks, Mayor, City of Albany, 106 East Clay Street, Albany, Missouri 64402.					
OH	Dublin (City) Franklin County.	North Fork Indian Run	Approximately 100 feet upstream of confluence with Indian Run and South Fork Indian Run.	*804	*799
			At county boundary, approximately 1,000 feet upstream of Wareham Drive.	*921	*923
		South Fork Indian Run	Approximately 40 feet upstream from confluence with Indian Run and North Fork Indian Run.	*804	*799
			Approximately 400 feet upstream of confluence with Indian Run and North Fork Indian Run.	*817	*818
			Approximately 300 feet downstream of Post Road.	None	*923
			Just downstream of Post Road	None	*927
		Indian Run	Approximately 50 feet upstream of North High Street culvert.	*778	*781
			At confluence of North Fork Indian Run and South Fork Indian Run.	*803	*799
Maps are available for inspection at the Dublin Engineering Building, 5800 Shier-Rings Road, Dublin, Ohio. Send comments to The Honorable Thomas M. McCash, Mayor, City of Dublin, 5200 Emerald Parkway, Dublin, Ohio 43017.					
WI	Fond du Lac County (Unincorporated Areas).	Anderson Creek	Approximately 200 feet upstream of U.S. Highway 45.	*751	*750

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet.	
				*(NGVD) Existing	♦(NAVD) Modified
			Just upstream of Melody Lane Crossing about 150 feet east of Pioneer Road.	*797	*802
		Mosher Creek	Just upstream of U.S. Highway 45	*751	*750
			Just downstream of Rolling Meadows Drive.	None	*780
Maps are available for inspection at the Municipal Office, City/County Government Center, 160 South Macy Street, Fond du Lac, Wisconsin. Send comments to Mr. Allen Buechel, Fond du Lac County Executive, 160 South Macy Street, Fond du Lac, Wisconsin 54935.					
WI	North Fond du Lac (Village).	Anderson Creek	Approximately 1,150 feet upstream of Minnesota Avenue.	*773	*772
			Approximately 1.3 miles upstream of Minnesota Avenue.	*781	*782
		Mosher Creek	At the eastern corporate limit, approximately 2,000 feet downstream of Marcoe Street.	*754	*753
			Approximately 50 feet downstream of Rolling Meadows Drive.	None	*780
		Lake Winnebago	Shoreline	None	*750
Maps are available for inspection at the Village Municipal Office, 16 Garfield Street, North Fond du Lac, Wisconsin. Send comments to Mr. Jim Moon, Village President, Village of North Fond du Lac, 16 Garfield Street, North Fond du Lac, Wisconsin 54937.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: June 24, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16539 Filed 6–30–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–P–7635]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and record keeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD)		Communities affected
	Existing	Modified	
Solomon River Tributary:			
At Union Pacific Railroad	*1,174	*1,172	Dickinson County (Unincorporated Areas).
Approximately 4,200 feet upstream of 7th Street	None	*1,189	City of Solomon.
*National Geodetic Vertical Datum of 1929 (NGVD 29).			
ADDRESSES			
Unincorporated areas of Dickinson County, Kansas.			
Maps are available for inspection at 109 East First Street, Suite 202, Abilene, Kansas.			
Send comments to The Honorable Leo Leffert, Commissioner, Dickinson County, PO Box 248, Abilene, Kansas 67410, City of Solomon, Dickinson County, Kansas.			
Maps are available for inspection at 116 West Main Street, Solomon, Kansas.			
Send comments to The Honorable Michael L. Nusbaum, Mayor, City of Solomon, 116 West Main Street, Solomon, Kansas 67480.			
Boggy Bayou:			
At confluence with Cypress Bayou	*159	*160	Unincorporated Areas of Caddo Parish.
Approximately 3,100 feet downstream of the Southern Pacific Railroad Bridge	*161	*160	
Brush Bayou:			
At confluence with Boggy Bayou	*159	*160	Unincorporated Areas of Caddo Parish.
Approximately 4,600 feet upstream of Confluence with Boggy Bayou	*159	*160	
Buchanan Bayou:			
At confluence with Boggy Bayou	*159	*160	Unincorporated Areas of Caddo Parish.
Approximately 5,400 feet upstream of the confluence with Boggy Bayou	*159	*160	
Caddo Lake:			
At Caddo Lake Dam	*184	*181	Unincorporated Areas of Caddo Parish, Town of Mooringsport, Town of Oil City.
Cypress Bayou:			
At Wallace Lake Dam	*159	*160	Unincorporated Areas of Caddo Parish, City of Shreveport.
Approximately 300 feet upstream of U.S. Highway 171 Bridge	None	*178	
Wallace Lake:			
At Wallace Lake Dam	*159	*160	Unincorporated Areas of Caddo Parish City of Shreveport.
*National Geodetic Vertical Datum.			

Unincorporated Areas of Caddo Parish, Louisiana

Maps are available for inspection at 505 Travis Street, 8th Floor, Shreveport, Louisiana.

Send comments to Mr. Robert C. Brown, Parish President, Caddo Parish, 505 Travis Street, Suite 100, 110 Shreveport, Louisiana 71163.

City of Shreveport, Caddo Parish, Louisiana:

Maps are available for inspection at 505 Travis Street, 3rd Floor, Shreveport, Louisiana.

Send comments to The Honorable Keith Hightower, Mayor, City of Shreveport, 505 Travis Street, PO Box 31109, Shreveport, Louisiana 71130.

Town of Mooringsport, Caddo Parish, Louisiana:

Maps are available for inspection at City Hall, 122 West Croom Street, Mooringsport, Louisiana.

Send comments to The Honorable Lynn R. Porter, Mayor, Town of Mooringsport, 122 West Croom Street, Mooringsport, Louisiana 71060.

Town of Oil City, Caddo Parish, Louisiana:

Maps are available for inspection at 202 Allen Street, Oil City, Louisiana.

Send comments to The Honorable Todd Hopkins, Mayor, Town of Oil City, 202 Allen Street, Oil City, Louisiana 71061.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: June 24, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16540 Filed 6–30–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7437]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § *67.4.*

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD)		Communities affected
		Effective	Modified	
CALIFORNIA				
Merced County, and Incorporated Areas.				
Bear Creek	At McKee Road	*183	*183	Merced County (Uninc. Areas).
	Just upstream of Bear Creek Drive	None	*225	
Black Rascal Diversion Channel.	At confluence with Bear Creek	None	*199	Merced County (Uninc. Areas).
	Approximately 3,700 feet upstream East Olive Avenue.	None	*202	
Local Ponding	Northeast of the intersection of East Childs Avenue and Fairfield Canal.	None	*200	Merced County (Uninc. Areas), City of Merced.
	Northeast of the intersection of Mission Avenue and South Arboleda Drive.	None	*200	
Local Ponding	Northeast of the intersection of East Childs Avenue and Tower Road.	None	*196	Merced County (Uninc. Areas), City of Merced.
	Southeast of the intersection of Le Grand Road and US Highway 99.	None	*196	

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD)		Communities affected
		Effective	Modified	
	Northeast of the intersection of Gerarad Avenue and the Fairfield Canal.	None	*196	
Local Ponding	Northeast of the intersection of Mission Avenue and the Fairfield Canal.	None	*193	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of East Childs Avenue and Kirby Road.	None	*191	City of Merced.
Local Ponding	Northwest of the intersection of State Highway 140 and Easy Street.	None	*190	Merced County (Uninc. Areas), City of Merced.
Local Ponding	Southeast of the intersection of US Highway 99 and Mariposa Way.	None	*189	Merced County (Uninc. Areas).
Local Ponding	Northeast and Southeast of the Intersection of East Childs Avenue and the Hartley Bradley Lateral.	None	*186	Merced County (Uninc. Areas), City of Merced.
Local Ponding	Southeast of the intersection of US Highway 99 and Vassar Avenue.	None	*183	Merced County (Uninc. Areas).
Local Ponding	Southeast of the intersection of US Highway 99 and Mission Avenue.	None	*179	Merced County (Uninc. Areas).
	Northeast of the intersection of Sandy Mush Road and Givens-Lustre Road.	None	*179	
Local Ponding	Northeast and Southeast of the intersection of US Highway 99 and McHenry Road.	None	*185	Merced County (Uninc. Areas).
Local Ponding	Southeast of the intersection of East Childs Avenue and Carol Avenue.	None	*176	City of Merced.
Local Ponding	Northeast of the intersection of Mission Avenue and Tyler Road.	None	*165	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of Healy Road and Deadman Creek.	None	*164	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of State Highway 59 and Duck Slough.	None	*151	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of Mariposa Way and Burchell Avenue.	None	*237	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of Gerard Avenue and Plainsburg Avenue.	None	*226	Merced County (Uninc. Areas).
Local Ponding	Southeast of the intersection of Kadota Avenue and Plainsburg Road.	None	*222	Merced County (Uninc. Areas).
Shallow Flooding	From the intersection of Woodland Avenue South and West to State Highway 59.	None	#1	Merced County (Uninc. Areas), City of Merced.
	From the AT & SF Railroad West to State Highway 59.	None	#1	
Shallow Flooding	From the AT & SF Railroad West to State Highway 59.	None	#2	Merced County (Uninc. Areas).
Shallow Flooding	Northeast of the intersection of State Highway 59 and Duck Slough.	None	#3	Merced County (Uninc. Areas).

ADDRESSES

Merced County (Unincorporated Areas)

Maps are available for inspection at Merced County Department of Public Works, 715 Martin Luther King Jr. Way, Merced, CA 95340.

Send comments to The Honorable Joe Rivero, Chairman, Merced County Board of Supervisors, 2222 M Street, Merced, CA 95340.

City of Merced

Maps are available for inspection at City Hall, 678 West 18th Street, Merced, CA 95340.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Hawaii	Hawaii County	Kaluiiki Branch	At confluence of Waipahoehoe Stream and Alenaio Stream.	None	*754
			Approximately 200 feet upstream of Akala Road.	None	*860
		Waipahoehoe Stream	At confluence with Kaluiiki Branch and Alenaio Stream.	None	*754
			Approximately 100 feet upstream of Akala Road.	None	*811
		Alenaio Stream	Just upstream of Kaumana Drive	*708	*708
			At confluence of Kaluiiki Branch and Waipahoehoe Stream.	*752	*754

Maps are available for inspection at the Hawaii County Department of Public Works, Engineering Division, 25 Aupuni Street, Hilo, Hawaii 96720.

Send comments to The Honorable Harry Kim, Mayor, Hawaii County, 25 Aupuni Street, Hilo, Hawaii 96720.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: June 24, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16541 Filed 6–30–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 030617155–3155–01; I.D. 051903D]

RIN 0648–AR11

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Weakfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to: increase the incidental catch allowance for weakfish caught in the Exclusive Economic Zone (EEZ) from 150 lb (67 kg) to no more than 300 lb (135 kg) per day or trip, whichever is longer in duration; remove Massachusetts and Connecticut from the list of states where commercially caught weakfish from the EEZ can be landed; and add to our regulations the Director, Office of Sustainable Fisheries, as an official who can grant Exempted Fishing Permits. The intent of this proposed rule is to modify regulations for the Atlantic coast stock of weakfish to promote the effectiveness of the Commission's Interstate Fishery Management Plan (ISFMP) for weakfish.

DATES: Written comments must be received on or before July 31, 2003.

ADDRESSES: Comments on the proposed rule should be sent to, and copies of a Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), are available from, Anne Lange, Chief, State-Federal Fisheries Division (SF8), Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Suite 13317, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, 301–713–2334.

SUPPLEMENTARY INFORMATION:

Background

NMFS is proposing to modify weakfish conservation measures in the EEZ under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, which states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce (Secretary) may implement regulations to govern fishing in the EEZ, i.e., from 3 to 200 nm offshore. These regulations must be (1) compatible with the effective implementation of an ISFMP developed by the Commission, and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

On November 21, 2002, the Commission approved and implemented Amendment 4 to the ISFMP for Weakfish (Amendment 4). Under Amendment 4, vessels fishing for weakfish must use mesh sizes of at least 3¼–inch (8.3 cm) square stretch mesh or 3¾–inch (9.5 cm) diamond stretch mesh for trawls and 2⅞–inch (7.3 cm) stretch mesh for gillnets. Vessels using smaller mesh sizes cannot target weakfish, but often take this species as bycatch (i.e. non-directed fisheries). During development of Amendment 4, some states expressed concern that increased numbers of weakfish are being discarded as bycatch in these non-directed fisheries. Although research on discard mortality for weakfish is not available, fishermen have indicated that most discards are dead, and therefore, discard mortality has been assumed to be 100 percent. To address this concern, Amendment 4 provides that states may allow fishermen targeting species other than weakfish to possess up to 300 lb (135 kg) of weakfish in any one day or trip, whichever is the longer period of time, as incidental catch in state waters, provided that there is at least an equal poundage of other species on board the vessel. This is an increase of 150 lb (67 kg) from the Amendment 3 incidental weakfish catch allowance of 150 lb (67 kg). Any state that chooses to implement a 300–lb (135–kg) allowance must have a reporting system in place that will allow adequate quantification of any such catch. State management plans must also account for any harvest of weakfish from non-directed fisheries. The required reporting systems will provide information on weakfish bycatch that will be needed by the Commission and NMFS in developing future regulations. Such information is currently limited. The Commission believes that this increase in allowance will contribute little to total landings, while the required reporting systems will result in improved data for future stock assessments

Status of the Weakfish Fishery

Amendment 4 incorporates results of the most recent weakfish stock assessments, developed by the Atlantic Coastal States, the Commission, and NMFS (Section 1.2.2 of Amendment 4). The 30th Northeast Regional Stock Assessment Workshop, in 2000, reviewed the weakfish stock assessment and concluded that weakfish were at a high level of abundance and subject to low fishing mortality rates. The assessment was subsequently updated, in 2002, with data through 2000. Spawning stock biomass has been building since 1993, and is currently well above the threshold of 31.8 million lb (14,400 MT). Estimates of fishing mortality, which reached a high in 1994 of 2.52, have been below 0.50, since 1995. The 2000 estimate is below the fishing mortality target of 0.31 and far below the fishing mortality threshold of 0.50.

Management measures implemented under Amendment 3 resulted in an increase in the size and age structure of the weakfish population. The estimate of the proportion of age 6+ fish had shrunk to only 0.3 percent of the total number of weakfish in 1990. This proportion has been increasing in recent years, reaching 6.8 percent of the total number in 2001. Measures implemented under Amendment 4 are designed to continue the expansion of the weakfish age and size structure to that necessary for full restoration of the stock, and to return weakfish to their previous geographic range.

Recommendation to the Secretary

On March 13, 2003, the Secretary received the following two recommendations from the Commission to implement regulations under the Atlantic Coastal Act: (1) Require that fishermen who harvest weakfish recreationally in the EEZ comply with the laws of the state where they are landed; and (2) allow fishermen in non-directed fisheries using smaller than certain specified mesh sizes to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration (an increase of 150 lb (67 kg) per day or trip). These two recommendations were part of five measures approved under

Section 4.9 of Amendment 4, but the only two that the Commission believed required changes to the current Federal regulations.

Recommendation 1 would require that fishermen who harvest weakfish recreationally in the EEZ comply with the laws of the state where they are landed. NMFS believes that the current provisions at 50 CFR 697.3(c) (''The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws, with respect to weakfish fishing and American lobster fishing'') is compatible with the intent of this recommendation. If a state has a regulation that is more restrictive than the Federal regulation in the EEZ, the Federal regulation would apply in the EEZ but would likely not prohibit the state from enforcing its more restrictive state law upon landing in that state. Therefore, the Commission's recommendation is already in effect and a change to the current regulation is not required.

Recommendation 2 would allow non-directed fisheries using a mesh size less than 3¼–inch (8.3 cm) square stretch mesh or 3¾–inch (9.5 cm) diamond stretch mesh for trawls and 2⅞–inch (7.3 cm) stretch mesh for gillnets to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration (an increase of 150 lb (67 kg) per day or trip over the current Federal EEZ regulation). The Commission stated in its letter to the Secretary that an increase in weakfish biomass has resulted in greater weakfish discards, and that a 300 lb (135 kg) bycatch allowance will help to reduce dead discards, while not encouraging directed fishing. The Commission believes that this recommendation is compatible with Amendment 4.

Recommendation 2 is essentially a bycatch provision. Bycatch is defined in the Magnuson-Stevens Act as ''fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards.'' In this case, since vessels fishing for weakfish are required to adhere to the minimum mesh sizes described above, vessels using the smaller mesh sizes cannot direct effort on this species. However, since vessels fishing with smaller mesh sizes are likely to encounter weakfish, any weakfish in excess of 300 lb (135 kg), taken by such vessels, would be considered bycatch under this recommendation. In addition, under Amendment 4, vessels fishing with smaller mesh sizes can retain up to the 300 lb (135 kg) weakfish bycatch allowance in state waters, provided there is at least an equal poundage of other species on board the vessel. The provision for equal or greater poundage of other species is more restrictive than would be implemented in Federal waters. Any state that chooses to implement a 300–lb (135–kg) allowance must have a reporting system in place that will allow adequate quantification of any such catch. State management plans must also account for any harvest of weakfish from non-directed fisheries. The required reporting systems will provide information on weakfish bycatch that will be needed by the Commission and NMFS in developing future regulations. This recommendation requires a change to current Federal regulations.

Another of the five measures approved under Section 4.9 of Amendment 4 was that weakfish commercially harvested in the EEZ be landed in accordance with the landing laws of the state in which they are landed, with the exception that weakfish caught commercially in the EEZ may not be landed in a *de minimis* state. The Commission permits a state to apply for *de minimis* status if, for the previous two years, its combined average commercial and recreational landings (by weight) constitute less than 1 percent of the annual coastwide commercial and recreational landings of weakfish for the same two year period. The Federal definition is compatible. Once *de minimis* status is granted, designated states are relieved of many of the burdens for monitoring weakfish catches, but must submit annual reports to the Weakfish Management Board justifying the continuance of *de minimis* status. This recommendation was not included in the letter from the Commission since this provision is addressed in current regulations.

The Commission found, and the Secretary agrees, that the States of Massachusetts and Connecticut are now *de minimis* states within the definition of the term, and therefore, these states ought to be removed from the list of states where commercially caught weakfish from the EEZ can be landed (see 50 CFR part 697.7(a)(7)). This measure supports the ability of the states to effectively monitor landings.

Proposed Action

Pursuant to section 804(a) of the Atlantic Coastal Act, the Secretary has a statutory obligation to support the Commission's Interstate Fishery Management Program. The Commission recently adopted Amendment 4, which is designed to continue the stock recovery seen during the implementation of Amendment 3, to benefit the ecosystem as well as commercial and recreational fisheries, and to continue to increase the age and size structure of the weakfish population, as well as its geographic range. In furtherance of this plan, the Commission requested Secretarial support in the form of a modification to the current Federal weakfish regulations. The recommended regulatory change would reduce dead discards (bycatch) by increasing the amount of incidental catch that can be landed, but by such a minimal amount that it would not encourage directed fishing. To support the Commission's weakfish management efforts under Amendment 4, NMFS proposes the following regulations that would modify management restrictions in the Federal weakfish fishery in a manner that is compatible with the recommendations made by the Commission. The proposed rule would allow vessels using a mesh size less than 3¼–inch (8.3 cm) square stretch mesh or 3¾–inch (9.5 cm) diamond stretch mesh for trawls and 2⅞–inch (7.3 cm) stretch mesh for gillnets to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration (an increase of 150 lb (67 kg) per day or trip over the current Federal EEZ regulation). In addition, the States of Massachusetts and Connecticut would be removed from the list of states where weakfish caught in the EEZ for commercial purposes can be landed (§ 697.7(a)(7)).

Two changes would be included in this rulemaking for consistency and ease of reading: (1) Under 50 CFR 697.22—Exempted fishing, the Regional Administrator is the only official who can exempt a person or vessel from the requirements of this part for the conduct of exempted fishing beneficial to the management of weakfish, pursuant to the provisions of 50 CFR 600.745 of this chapter. But, under 50 CFR 600.745, the Director, Office of Sustainable Fisheries has also been delegated this task. For consistency, the Director would be added to 50 CFR 697.22 as an official, along with the Regional Administrator, who can exempt a person or vessel from the requirements of this part; and (2) Atlantic Coastal Act would be added to the definition section at 50 CFR 697.2.

Classification

This proposed rule is published under the authority of the Atlantic Coastal Act. Paragraphs (A) and (B) of section 804(b)(1) authorizes the Secretary to implement regulations in the EEZ in the absence of a Magnuson-Stevens Act FMP. Such regulations must be

necessary to support a Commission's ISFMP, and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act. The Assistant Administrator for Fisheries has preliminarily determined that these actions are consistent with the national standards. The Secretary, before making the final determination, will take into account data, views, and comments received during the comment period.

NMFS prepared an initial regulatory flexibility analysis (IRFA) that describes the impact that this proposed rule, if adopted, would have on small entities. A summary of the IRFA is as follows:

This proposed rule is published under the authority of section 803 of the Atlantic Coastal Act. The purpose of the proposed rule is to improve cooperative management of the Atlantic coast weakfish fishery by supporting the Commission's Amendment 4, as required under the Atlantic Coastal Act. The proposed Federal regulatory change would increase the permitted non-directed incidental catch of the species from 150 lb (67 kg) to no more than 300 lb (135 kg) per day or trip. Analysis of the best available data in the EA/RIR/IRFA suggests that the proposed increase would not alter current fishing practices or effort, or increase the number of weakfish caught. The 150–lb (67–kg) increase would simply convert 150 lb (67 kg) of weakfish, which would be caught and discarded at sea as dead bycatch, into 150 lb (67 kg) of weakfish caught as incidental catch and landed. The need for the proposed action is explained in the preamble to this proposed rule and is not repeated here.

Only two alternatives were considered for this proposed action. They were: Alternative 1: No Action; and Alternative 2 (Preferred Alternative): Allow vessels in non-directed fisheries, using mesh sizes less than 3¼–inch (8.3 cm) square stretch mesh or 3¾–inch (9.5 cm) diamond stretch mesh for trawls and 2⅞–inch (7.3 cm) stretch mesh for gillnets to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration. Although a third alternative was identified in the environmental assessment, it was considered to be not significant for purposes of this IRFA. Furthermore, because the Secretary is required to develop and implement a program to support the Commission's action, analysis of additional alternatives would not meet the purpose and need for this action, or objectives of the Atlantic Coastal Act..

The preferred alternative would allow vessels in non-directed fisheries, using a mesh size less than 3¼–inch (8.3 cm) square stretch mesh or 3¾–inch (9.5 cm) diamond stretch mesh for trawls and 2⅞–inch (7.3 cm) stretch mesh for gillnets, to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration (an increase of 150 lb (67 kg)).

NMFS does not have an estimate of the number of small entities to which the proposed action would apply because vessels most likely to be impacted are not required to hold a permit to fish for weakfish in the EEZ. However, the action would only apply to those fishermen who capture weakfish incidentally while fishing for other species using a smaller mesh size than is allowed in the directed weakfish fishery. In addition, under Alternative 1, status quo, no additional small entities would be impacted; while implementation of Alternative 2 would apply to fishermen who use nets with smaller mesh sizes and catch over 150 lb (67 kg) of weakfish on a given day or trip. During 1998–2002, vessel trip reports indicated that only 1,116 small mesh otter trawl trips and 4 small mesh gillnet trips landed weakfish caught while fishing in the EEZ. The average price received by fisherman reporting weakfish catch in the EEZ in 2001 was $0.614 per lb. If an affected vessel were to land 150 lb (67 kg) of weakfish, as currently permitted (Alternative 1), $92 in revenue could be realized, per trip. If Alternative 2 were implemented, an additional $92 in revenue, for a weakfish total of $184 per trip (double the current amount) would be possible. For a more accurate picture of the expected economic impacts for the two alternatives, actual catches from individual vessel trip records, from 1998–2002, were multiplied by average price-per-pound of weakfish from the EEZ to determine estimated revenues per trip. Since vessels may not catch the full 150 lb (67 kg) or 300 lb (135 kg) allowed in Alternative 1 and 2, revenues for each Alternative were projected as the average for those trips that reported from 1 to 150 lb (67 kg) (Alternative 1) and from 151 to 300 lb (135 kg) (Alternative 2). Catches from trips that reported over 300 lb (135 kg) were capped at the 300 lb (135 kg) proposed limit (Alternative 2) for these calculations. Calculated revenues for sale of allowed weakfish landings under Alternative 1 averaged $22; potential revenues for Alternative 2 were estimated at $160 per trip. Based on 1998–2002 vessel trip data, total annual revenues for all non-directed weakfish trips, coastwide are projected to be about $6,200 under Alternative 1, and about $7,800, if Alternative 2 were to be implemented.

There will be no reporting and recordkeeping requirements resulting from this proposed action.

There are no Federal rules which may duplicate, overlap, or conflict with the proposed action.

NMFS is inviting the public to provide comment on the number of small entities that might be affected by this proposed action. NMFS will consider comments received during the public comment period for this proposed action that relate to the economic impacts of the preferred alternative before publishing the final action.

A copy of the IRFA is available from NMFS (see **ADDRESSES**).

NMFS has made a preliminary decision that this proposed rule is not significant for purposes of E.O. 12866. This proposed rule has been submitted to the Office of Management and Budget for review pursuant to E.O. 12866.

List of Subjects in 50 CFR Part 697

Fisheries, Fishing

Dated: June 25, 2003.

Rebecca J. Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI, part 697, is proposed to be amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

1. The authority citation for part 697 is revised to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

2. In § 697.2, the definition for ''Atlantic Coastal Act'' is added in alphabetical order to read as follows:

§ 697.2 Definitions.

* * * * *

Atlantic Coastal Act means the Atlantic Coastal Fisheries Cooperative Management Act, as amended (16 U.S.C. 5101 *et seq.*).

* * * * *

3. Section 697.7, paragraph (a)(4) and (a)(7) are revised to read as follows:

§ 697.7 Prohibitions.

(a) * * *

(4) Possess more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3¼–inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾–inch (9.5 cm) diamond stretch mesh

for finfish trawls and 2⅞–inch (7.3 cm) stretch mesh for gillnets.

* * * * *

(7) Land weakfish for commercial purposes caught in the EEZ in any state other than Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina.

4. Section 697.22 is revised to read as follows:

§ 697.22 Exempted fishing.

The Regional Administrator or Director may exempt any person or vessel from the requirements of this part for the conduct of exempted fishing beneficial to the management of the American lobster, weakfish, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resource or fishery, pursuant to the provisions of § 600.745 of this chapter.

(a) The Regional Administrator or Director may not grant such exemption unless it is determined that the purpose, design, and administration of the exemption is consistent with the objectives of any applicable stock rebuilding program, the provisions of the Atlantic Coastal Act, the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster, Atlantic striped bass, weakfish, Atlantic sturgeon, or horseshoe crab resource or fishery; or

(2) Create significant enforcement problems.

(b) Each vessel participating in any exempted fishing activity is subject to all provisions of this part, except those explicitly relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Administrator or Director to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption. Exempted fishing activity shall be authorized pursuant to and consistent with § 600.745 of this chapter.

[FR Doc. 03–16573 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 126
Tuesday, July 1, 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

Cooperative State Research, Education, and Extension Service

Notice of Intent To Establish an Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to request approval to establish an information collection for the CSREES Current Research Information System (CRIS).

DATES: Submit comments on or before September 4, 2003.

ADDRESSES: Address all comments to Jason Hitchcock, E-Government Program Leader, Information Systems and Technology Management; CSREES/USDA; Mail Stop 2216; 1400 Independence Avenue, SW.; Washington, DC 20250–2216. Comments may be sent electronically to: *jhitchcock@csrees.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Jason Hitchcock at (202) 720–4343 or via the above e-mail address.

SUPPLEMENTARY INFORMATION:

Title: CSREES Current Research Information System (CRIS).

OMB Number: 0524–NEW.

Expiration Date of Current Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection for three years.

Abstract: The United States Department of Agriculture (USDA), Cooperative State Research, Education, and Extension Service (CSREES) administers several competitive, peer-reviewed research, education, and extension programs, under which awards of a high-priority are made. These programs are authorized pursuant to the authorities contained in the Competitive, Special, and Facilities Research Grants Act of August 4, 1965, as amended (7 U.S.C. 450i); the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (NARETPA) (7 U.S.C. 3101 *et seq.*); the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601 *et seq.*); and other legislative authorities.

CSREES also administers several formula-funded research programs. The programs are authorized pursuant to the authorities contained in the Hatch Act of 1887 (7 U.S.C. 361a–i); McIntire-Stennis Cooperative Forestry Research Act of October 10, 1962 (16 U.S.C. 582a *et seq.*); section 1445 of NARETPA (7 U.S.C. 3222); and section 1433 of NARETPA (7 U.S.C. 3195).

The Current Research Information System (CRIS) is the U.S. Department of Agriculture's documentation and reporting system for ongoing agricultural, food science, human nutrition, and forestry research. CRIS Form AD–416, Research Resume; CRIS Form AD–417, Classification of Research; CRIS Form AD–419, Research Funds and Staff Support; and CRIS Form AD–421, Progress Report constitute an information collection for publicly-supported research projects as set forth in 7 CFR Parts 3400–3419. This information collection is necessary in order to provide descriptive information regarding individual research activities and integrated activities, to document expenditures and staff support for the activities, and to monitor the progress and impact of such activities.

The historical mission of CRIS, broadly stated, is to document the research activities of the USDA and the State agricultural research system partners, to satisfy a variety of reporting requirements; and to provide access to research information. This mission supports one of the CSREES' primary functions, stated in the agency strategic plan, of providing program leadership to identify, develop, and manage programs to support university-based and other institutional research.

The boundaries and scope of the CRIS mission are being expanded each year toward a more comprehensive purpose. As such, the information collected for CRIS is utilized in an essentially unlimited number of ways for a wide array of purposes. Generally, CRIS provides ready access to information through public web accessible data as well as individually requested, customized reports and services for agency officials, program leaders, administrators and managers. The information provided helps users to keep abreast of the latest developments in agricultural, food science, human nutrition and forestry research; track resource utilization in specific target areas of research; plan for future research activities; plan for resource allocation to research programs; avoid costly duplication of research effort; aid in coordination of research efforts addressing similar problems in different locations; and aid researchers in establishing valuable contacts within the research community.

Descriptive information pertaining to documented projects is available to the general public as well as the agricultural research community contributing to CRIS. Limited financial information is available on individual grant projects and cooperative agreements as well as summary financial information through the CRIS web site.

Cooperating institutions, including the state agricultural experiment stations, state forestry schools, 1862 land-grant institutions and 1890 land-grant institutions have access to all the data pertaining to their institutions. Many institutions take advantage of this access utilizing CRIS system facilities to manage the research programs at their institutions.

In addition, CSREES staff members can request specialized reports directly from the CRIS staff. These requests can include financial disclosure pertaining to a particular subject area or targeted program. The nature of this type of request characterizes one of the strengths of the CRIS information collection. The system collects obligations and expenditures on individual projects; however, information can be retrieved and aggregated based on subject areas or targeted programs, and corresponding financial information can be tabulated accordingly. The inclusion of subject-

based classifications and subject specific descriptive fields supports a unique retrieval capability in this system. The information can be utilized nationally, regionally, or at more detailed levels, by program leaders, budget officials, and administrators to identify resource utilization, monitor research activity in specific target areas, support decision making and resource allocation, not just on individual projects, but also for specific program areas. Combining system capabilities facilitates the program evaluation, accountability, and decision-making processes.

Estimate of Burden: The preferred method for submitting this information collection is electronic via a web interface. CSREES will accept electronic submissions by other means and on rare occasions, by a fax transmission. A submission is made once. There may be instances that a second submission is required, however, this would involve corrections or revisions to the initial submission. There are no special circumstances that would cause an information collection to be conducted in a manner that would require respondents to submit more than an original and two copies of any document. In fact, paper-based submissions are discouraged.

Determination of hour burden estimates for the CRIS data collection was accomplished by requesting estimates from nine individuals who have significant experience in the generation of information to satisfy the collection requirements of the AD–416, AD–417, AD–419 and AD–421 forms. The basic unit of measure in CRIS is a project. As such for purposes of this estimate, a respondent was treated as all responses related to a single project. Typically the information to provide data on the four forms is the result of work processes performed by a number of individuals, both professional and administrative. Accordingly the estimate was developed by tabulating burden hours in two categories, the first, scientific/professional, and the second, administrative. The estimates provided varied in magnitude. The variation is due to significant differences in the internal procedures and processes utilized at the individual locations as well as differences between individual interpretation of the inclusion of efforts contributed to the development of the information. Responses were received from eight of the nine individuals. The data was summarized to develop common burden hour estimates related to each individual form. These estimates were then projected onto the total volume of the forms processed by CRIS in an annual cycle.

CSREES estimates the number of responses for the CRIS Form AD–416 will be 3,258 with an estimated response time of 3.9 hours per form, representing a total annual burden of 12,706 hours for this form. CSREES estimates the number of responses for the CRIS Form AD–417 will be 3,258 with an estimated response time of .7 hours per form, representing a total annual burden of 2,281 hours for this form. CSREES estimates that the number of responses for the CRIS Form AD–419 will be 11,767 with an estimated response time of 1.4 hours per form, representing a total annual burden of 16,474 hours for this form. CSREES estimates the number of responses for the CRIS Form AD–421 will be 12,158 with an estimated response time of 2.7 hours per form, representing a total annual burden of 32,827 hours for this form. Thus, for this CRIS information collection, CSREES estimates a total of 30,441 annual responses, representing an estimated 64,288 annual burden hours.

Copies of this information collection can be obtained from Jason Hitchcock, E-Government Program Leader, Information Systems and Technology Management; CSREES/USDA; Mail Stop 2216; 1400 Independence Avenue, SW.; Washington, DC 20250–2216; or sent electronically to: *jhitchcock@csrees.usda.gov.*

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

Done at Washington, DC, this 24th day of June, 2003.

Gary Cunningham,

Associate Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 03–16507 Filed 6–30–03; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Intent To Revise and Request an Extension of a Currently Approved information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to revise and request an extension for a currently approved information collection (OMB No. 0524–0026) for Form CSREES–665, ''Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance,'' and Form CSREES–666, ''Organizational Information.''

DATES: Submit comments on or before September 4, 2003.

ADDRESSES: Address all comments to Erin Daly, Policy Specialist, Office of Extramural Programs; CSREES/USDA; Mail Stop 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299. Comments may be sent electronically to: *edaly@csrees.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Erin Daly at (202) 401–3319 or via the above e-mail address.

SUPPLEMENTARY INFORMATION:

Title: Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance and Organizational Information.

OMB Number: 0524–0026.

Expiration Date of Current Approval: August 31, 2003.

Type of Request: Intent to revise and extend a currently approved information collection for three years.

Abstract: CSREES has primary responsibility for providing linkages between the Federal and State components of a broad-based, national agricultural research, extension, and education system. Focused on national issues, its purpose is to represent the Secretary of Agriculture and carry out the intent of Congress by administering formula and grant funds appropriated for agricultural research, extension, and

education. Before awards can be made, certain information is required from applicants to assure compliance with the applicable civil rights laws and to effectively assess the potential recipient's capacity to manage Federal funds.

The following information will continue to be collected:

Form CSREES–665—Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil rights Compliance: By signing this form, the organization certifies that it complies with the Civil Rights Act of 1964, as amended. The applicant agrees that it will offer its programs to all eligible persons without regard to race, color , national origin, gender, disability, age, political beliefs, religion, marital status, or familial status and that people will not be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives the Federal financial assistance from the Department of Agriculture. This information is submitted to CSREES on a one-time basis.

Form CSREES–666—Organizational Information: Enables CSREES to determine that applicants recommended for awards will be responsible recipients of Federal funds. The information pertains to organizational management and financial matters of the potential grantee. This form and the documents which the applicant attaches to it provide CSREES with information such as the legal name of grantee, certification that the organization has the legal authority to accept Federal funding, identification and signatures of the key officials of the organization, the organization's practices in regard to compensation rates and benefits of employees, insurance for equipment, subcontracting with other organizations, etc., as well as the financial condition of the organization. All of this information is considered by CSREES prior to award to determine that grantees are both managerially and fiscally responsible. This information is submitted to CSREES on a one-time basis. If sufficient changes occur within the organization, the grantee submits revised information.

With regards to compliance with the Government Paperwork Elimination Act (44 U.S.C. 3504 note), CSREES is proposing to postpone making an electronic option available for this information collection until the Federal government-wide electronic process is developed for collecting organizational information and statutory certifications from new grantees. Under the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107), Federal agencies and OMB have been working together to streamline and simplify the award and administration of Federal grants. As a result of these activities, Federal agencies and OMB are proposing various regulations, policies, and business processes that will decrease the overall information collection burden to grant recipients by having a central location where this information is collected for use by all Federal grantmaking agencies.

Estimate of the Burden: CSREES estimates the number of responses for the Form CSREES–665 will be 150 with an estimated response time of .5 hour per form, representing a total annual burden of 75 hours for this form. CSREES estimates the number of responses for the Form CSREES–666 will be 150 with an estimated response time of 6.3 hours per form, representing a total annual burden of 945 hours for this form. These estimates are based on a survey of grantees who had recently been approved for grant awards. They were asked to give an estimate of time it took them to complete each form. This estimate was to include such things as: (1) Reviewing the instructions; (2) Searching existing data sources; (3) Gathering and maintaining the data needed; and (4) Actual completion of the forms. The average time it took each respondent was calculated from their responses.

Copies of this information collection can be obtained from Erin Daly, Policy Specialist, Office of Extramural Programs; CSREES/USDA; Mail Stop 2299; 1400 Independence Avenue, SW,; Washington, DC 20250–2299; or sent electronically to: *edaly@csrees.usda.gov*.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have a practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection 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.

Done at Washington, DC, this 24th day of June 2003.

Gary Cunningham,

Associate Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 03–16508 Filed 6–30–03; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Modoc County RAC Meetings

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Modoc National Forest's Modoc County Resource Advisory Committee will go on a field trip Monday, July 14, on the Warner Mountain Ranger District.

The Modoc County Resource Advisory Committee will hold a business meeting on Monday, July 21, in the Forest Supervisors' Office in Alturas, California from 6 to 8 pm. The field trip and business meeting are open to the public.

SUPPLEMENTARY INFORMATION: The field trip will visit actual and proposed project sites on the Warner Mountain Ranger District. The business meeting July 21, begins at 6 p.m., at the Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas. Agenda topics will include approval of the June 9 minutes, consideration of new projects 2004, and discuss community outreach for projects for fiscal year 2004 that will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, provide economic benefits and restore and improve health and water quality that meet the intent of Public Law 106–393. Time will also be set aside for public comments at the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Forest Supervisor Stan Sylva, at (530) 233–8700; or Public Affairs Officer Nancy Gardner at (530) 233–8713.

Nancy Gardner,

Acting Forest Supervisor.

[FR Doc. 03–16528 Filed 6–30–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and request for revocation in part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (2002), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. With respect to Certain Softwood Lumber Products from Canada, the initiation of the antidumping administrative review for that case is being published in a separate notice. The Department also received a timely request to revoke in part the antidumping duty order on Certain Polyester Staple Fiber from the Republic of Korea.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than May 31, 2004.

	Period to be reviewed
Antidumping duty Proceedings	
Belgium: Stainless Steel Plate in Coils, A–423–808	5/1/02–4/30/03
ALZ, N.V.	
Brazil: Frozen Concentrated Orange Juice, A–351–605	5/1/02–4/30/03
Citrovita Agro Industrial Ltda/Cambuhy MC Industrial Ltda/Cambuhy Citrus Comercial e Exportadora	
Branco Peres Citrus S.A.	
CTM Citrus S.A.	
Sucorrico S.A.	
Kazakhstan: Silicomanganese, A–834–807	5/1/02–4/30/03
Considar, Inc.	
Republic of Korea: Certain Polyester Staple Fiber, A–580–839	5/1/02–4/30/03
Daehan Synthetic Fiber Co.	
Daeyang Industrial Co., Ltd.	
East Young Co., Ltd.	
Estal Industry Co., Ltd.	
Geum Poong Corporation	
Huvis Corporation	
Keon Baek Co., Ltd.	
Mijung Ind. Co., Ltd.	
Saehan Industries, Inc.	
Samheung Co., Ltd.	
Sam Young Synthetics Co., Ltd.	
Sunglim Co., Ltd.	
Taiwan: Stainless Steel Plate in Coils, A–583–830	5/1/02–4/30/03
Ta Chen Stainless Pipe Co., Ltd.	
Yieh United Steel Corporation	
Taiwan: Certain Circular Welded Carbon Steel Pipe and Tubes, A–583–008	5/1/02–4/30/03
Yieh Hsing	
The People's Republic of China: Iron Construction Castings [1], A–570–502	5/1/02–4/30/03
Shandong Himight Machinery Co., Ltd.[2]	
Turkey: Certain Welded Carbon Steel Pipe and Tube, A–489–501	5/1/02–4/30/03
The Borusan Group	

[1] If the above named company does not qualify for a separate rate, all other exporters of iron construction castings from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.

[2] The request was for a review of ''manhole covers, exported by Shandong Himight Machinery Co., Ltd., and produced by Weifang Fangzi Mucun Foundry (Mucun Foundry) and Weifang Fangzi Tongbao Foundry (Tongbao Foundry).'' In accordance with Department practice, we will review all exports of subject merchandise by Shandong Himight Machinery Co., Ltd., regardless of manufacturer. Furthermore, the request noted that, while ''Shandong Himight Co., Ltd. is the real exporter,'' it paid another company a management fee to use its name to conduct the export.

	Period/class or kind
Antifriction bearings proceedings and firms	
France: A–427–801	5/1/02–4/30/03
BTM	Ball
Budapesti Sved Csapagy Kft.	Ball
Delta Export GmbH	Ball
Justy Corp.	Ball
Ringball Corporation	Ball & Spherical

	Period/class or kind
SKF	Ball
SNR	Ball
Germany: A–428–802	5/1/02–4/30/03
Ace Bearing & Transmission Co.	Ball
Acorn Industrial Service	Ball
Aktif Endustri Malzemeleri	Ball
Alphateam SPRL	Ball
Australian Bearing Pty Ltd.	Ball
Baltic Bearing Supply Gmbh	Ball
Bearing & Tool Gmbh	Ball
Bearing Discount International Gmbh	Ball
Bearing Dynamics	Ball
Bearing Net	Ball
Bearing Sales Corp.	Ball
BTM	Ball
BTM Bearing Trade F.C. Miltner	Ball
Budapesti Sved Csapagy Ltd.	Ball
Cantoni & C.S.N.C.	Ball
CCVI Bearing Co.	Ball
Comal SNC	Ball
DCD Corp.	Ball
Delta Export Gmbh	Ball
EuroLatin Ex. Services	Ball
FAG	Ball
Fair Friend Ent. Co. Ltd.	Ball
Friedrich Picard Gmbh	Ball
Froklich & Dorken Gmbh	Ball
Godiva Bearing Ltd.	Ball
Han Sol Tech. Corp/Yoo Shin Co.	Ball
Hayley Import/Export	Ball
Heinz Knust	Ball
Hergenhan Gmbh	Ball
Hoens Industriel BV	Ball
IBD Ltd.	Ball
INA	Ball
International Bearing Pte. Ltd.	Ball
Interspecies Donath Gmbh	Ball
Italcuscinetti Group	Ball
Justy Corp.	Ball
Kian Ho Bearings, Ltd.	Ball
KIS Antriebs Technik Gmbh	Ball
KSM, Minamiguchi/ Bearing Manufacturing Co.	Ball
Kugellager Weber	Ball
LTM Industrietechnik	Ball
M. Buchhalter Maschenmode/Hergenhan	Ball
Micaknowledge	Ball
Minetti SPA	Ball
Ming Hing Trading Co.	Ball
Motion Bearing Pte. Ltd	Ball
Paul Mueller	Ball
Ringball Corporation	Ball
Rodamientos Rovi	Ball
Roeirasa	Ball
Rolling Bearing Co. Pty Ltd.	Ball
Rovi-Marcay	Ball
Rovi-Valencia	Ball
SKF	Ball
Sprint Engineering	Ball
Taisho Kiko Co. Ltd.	Ball
Taninaka Ltd.	Ball
Timken	Ball
Top G Trading Pte Ltd.	Ball
Weber Kugellager Int.	Ball
Withus Technology Corp.	Ball
Wyko Export, Division of Wyko Grp/Wyko-Ewb	Ball
Italy: A–475–201	5/1/02–4/30/03
Ace Bearing & Transmission Co.	Ball
Acorn Industrial Service	Ball
Aktif Endustri Malzemeleri	Ball
Alphateam SPRL	Ball
Australian Bearing Pty Ltd.	Ball
Baltic Bearing Supply Gmbh	Ball
Bearing & Tool Gmbh	Ball
Bearing Discount International Gmbh	Ball

	Period/class or kind
Bearing Dynamics	Ball
Bearing Net	Ball
Bearing Sales Corp.	Ball
BTM	Ball
BTM Bearing Trade F.C. Miltner	Ball
Budapesti Sved Csapagy Ltd.	Ball
Cantoni & C.S.N.C.	Ball
CCVI Bearing Co.	Ball
Comal SNC	Ball
DCD Corp.	Ball
Delta Export Gmbh	Ball
EuroLatin Ex. Services	Ball
FAG	Ball
Fair Friend Ent. Co. Ltd.	Ball
Friedrich Picard Gmbh	Ball
Froklich & Dorken Gmbh	Ball
Han Sol Tech. Corp/Yoo Shin Co.	Ball
Hayley Import/Export	Ball
Heinz Knust	Ball
Hergenhan Gmbh	Ball
Hoens Industriel BV	Ball
IBD Ltd.	Ball
International Bearing Pte. Ltd.	Ball
Interspecies Donath Gmbh	Ball
Italcuscinetti Group	Ball
Justy Corp.	Ball
Kian Ho Bearings, Ltd.	Ball
KIS Antriebs Technik Gmbh	Ball
KSM, Minamiguchi/ Bearing Manufacturing Co.	Ball
Kugellager Weber	Ball
LTM Industrietechnik	Ball
M. Buchhalter Maschenmode/Hergenhan	Ball
Micaknowledge	Ball
Minetti SPA	Ball
Ming Hing Trading Co. (Formerly BTM)	Ball
Motion Bearing Pte. Ltd	Ball
Ringball Corporation	Ball
Rodamientos Rovi	Ball
Roeirasa	Ball
Rolling Bearing Co. Pty Ltd.	Ball
Rovi-Marcay	Ball
Rovi-Valencia	Ball
SKF	Ball
Sprint Engineering	Ball
Taisho Kiko Co. Ltd.	Ball
Taninaka Ltd.	Ball
Top G Trading Pte Ltd.	Ball
Weber Kugellager Int.	Ball
Withus Technology Corp.	Ball
Wyko Export, Division of Wyko Grp/Wyko-Ewb	Ball
Japan: A–588–804	5/1/02–40/30/03
Asahi Seiko Co. Ltd.	Ball
IMA Corp.	Ball
Justy Corp.	Ball
Koyo Seiko Co., Ltd	Ball
Nachi	Ball
Nankai Seiko (SMT)	Ball
NPBS	Ball
NSK	Ball
NTN Corporation	Ball
Osaka Pump Co. Ltd	Ball
Ringball Corporation	Ball
Sapporo Precision Bearings, Inc.	Ball
SNR Roulements	Ball
Taisei Industries, Ltd.	Ball
Takeshita Seiko Co., Ltd.	Ball
TEC Engineering Co., Ltd	Ball
Yoshida Shokai	Ball
Singapore: A–599–801	5/1/02–4/30/03
NMB/Pelmec	Ball
U.K.: A–412–801	5/1/02–4/30/03
Aeroengine Bearings UK	Ball
Barden/FAG	Ball
BTM	Ball

	Period/class or kind
Budapesti Sved Csapagy Kft.	Ball
Delta Export Gmbh	Ball
Justy Corp.	Ball
NSK Bearings Europe	Ball
SKF	Ball
Countervailing Duty Proceedings	
Canada: Certain Softwood Lumber Products,[3] C–122–839	5/22/02–3/31/03

[3] The Department received requests that it conduct an aggregate review from, among others, the Coalition for Fair Lumber Imports Executive Committee and the Government of Canada, as well as approximately 400 requests for review covering an estimated 290 individual companies. In light of these requests, the Department is considering its options under section 777A(e)(2) of the Act.

Suspension Agreements

None.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: June 26, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 03–16647 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-337–803]

Fresh Atlantic Salmon from Chile: Preliminary Results of Antidumping Duty Changed Circumstances Review and Notice of Intent to Revoke Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Preliminary results of antidumping duty changed circumstances review and notice of intent to revoke order and to rescind administrative review.

SUMMARY: On May 23, 2003, the Department of Commerce (the Department) published a notice of initiation of a changed circumstances review with the intent to revoke the antidumping order on fresh Atlantic salmon from Chile. *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Fresh Atlantic Salmon from Chile*, 68 FR 28196 (May 23, 2003) (Initiation Notice). In our Initiation Notice, we invited interested parties to comment. We did not receive any comments. Based on the fact that domestic parties have expressed no interest in the continuation of the order, we now preliminarily revoke this order for all entries that were entered, or withdrawn from warehouse, on or after July 1, 2001, the first day after the last completed review in this proceeding.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Keith Nickerson or Constance Handley, at (202) 482–3813 or (202) 482–0631, respectively; AD/CVD Enforcement Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1998, the Department issued an antidumping duty (AD) order on fresh Atlantic salmon from Chile. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Fresh Atlantic Salmon from Chile*, 63 FR 40699 (July 30, 1998). On July 1, 2002, the Department issued a notice of opportunity to request the fourth administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 44172 (July 1, 2002).

On July 31, 2002, in accordance with 19 CFR 351.213(b)(2003), L.R. Enterprises, Inc. (L.R. Enterprises) requested a review of 90 producers/exporters of fresh Atlantic salmon review, covering the period July 1, 2001, through June 30, 2002. Twelve respondents also requested reviews of themselves. On August 27, 2002, the Department published the notice of initiation of this AD administrative. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 (August 27, 2002). L.R. Enterprises subsequently withdrew its request for review of all but 13 of these companies. For a detailed discussion of L.R. Enterprises' withdrawals, as well as a listing of which respondents requested reviews, *see Notice of Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon from Chile*, 67 FR 76378 (December 12, 2002).

On April 29, 2003, L.R. Enterprises withdrew its request that the Department conduct reviews of the remaining 13 producers/exporters of fresh Atlantic salmon from Chile. Furthermore, L.R. Enterprises stated that it had no interest in maintaining the AD order. Subsequently, by letters dated April 29, 2003, five U.S. producers of fresh Atlantic salmon, *i.e.* Heritage Salmon Inc., Maine Nordic Salmon, Stolt Sea Farms Inc., Cypress Island Inc., and Atlantic Salmon of Maine, requested that the Department initiate a changed circumstances review for the purpose of revoking the AD order on the subject merchandise. On May 2 and 7, 2003, L. R. Enterprises and Trumpet Island Salmon Farm Inc. (another U.S. producer of fresh Atlantic salmon), respectively, submitted their requests to the Department for the initiation of a changed circumstances review for the purpose of revoking the AD order. All parties requested that the Department grant revocation of the AD order retroactive to July 1, 2001, the first day

of the period of review covered by the on-going fourth administrative review.

On May 23, 2003, the Department published a notice of initiation of a changed circumstances review with the intent to revoke the AD order on fresh Atlantic salmon from Chile. In the Initiation Notice, we indicated that interested parties could submit comments for consideration in the Department's preliminary results no later than 20 days after publication of the initiation of the review, and submit rebuttal to those comments no later than 10 days following the submission of comments. We did not receive any comments.

Scope of the Order

The product covered by this order is fresh, farmed Atlantic salmon, whether imported ''dressed'' or cut. Atlantic salmon is the species *Salmo salar*, in the genus *Salmo* of the family *salmoninae*. ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the order. Examples of cuts include, but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope are (1) fresh Atlantic salmon that is ''not farmed'' (*i.e.*, wild Atlantic salmon); (2) live Atlantic salmon; and (3) Atlantic salmon that has been subject to further processing, such as frozen, canned, dried, and smoked Atlantic salmon, or processed into forms such as sausages, hot dogs, and burgers.

The merchandise subject to this order is classifiable as item numbers 0302.12.0003 and 0304.10.4093 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Preliminary Results of Review and Intent to Revoke the AD Order

Pursuant to sections 751(d)(1) and 782(h)(2) of the Tariff Act of 1930, as amended (the Act), the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant review of a final affirmative antidumping determination. The Department's regulations at 19 CFR 351.222(g)(2) provide that the Department will conduct a changed circumstances review under 19 CFR 351.216 if the Secretary concludes from the available information that changed circumstances sufficient to warrant revocation or termination may exist. The Department may revoke an order (in whole or in part), if the Secretary determines that: (i) producers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. 19 CFR 351.222(g)(i); *See also Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review*, 66 FR 52109 (October 12, 2001) *and* 19 CFR 351.208(c). According to the record of this case, the following are U.S. producers of fresh Atlantic salmon: L.R. Enterprises, Heritage Salmon Inc., Maine Nordic Salmon, Stolt Sea Farms Inc., Cypress Island Inc., Atlantic Salmon of Maine, and Trumpet Island Salmon Farm Inc. Based upon the statement of no interest by the U.S. producers referenced above and the fact that the Department did not receive any comments during the comment period, the Department is preliminarily revoking the order on fresh Atlantic salmon from Chile for all entries that were entered, or withdrawn from warehouse, on or after July 1, 2001, the first day after the last completed review in this proceeding.

In addition, if final revocation of the order occurs, we intend to instruct the U.S. Bureau of Customs and Border Protection (BCBP) to discontinue the suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of fresh Atlantic salmon from Chile entered, or withdrawn from warehouse, for consumption on or after July 1, 2001. We will also instruct the BCBP to pay interest on any refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after July 1, 2001, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review or other administrative review. We also note that if these preliminary results become final, we intend to rescind the current antidumping duty administrative review covering the period July 1, 2001, through June 30, 2002.

Interested parties wishing to comment on these results may submit briefs to the Department no later than 10 days after the publication of this notice in the **Federal Register**. Parties will have five days subsequent to this due date to submit rebuttal comments, limited to the issues raised in those comments. Parties who submit comments or rebuttal comments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes). All written comments must be submitted in accordance with 19 CFR 351.303 and must be served on all interested parties on the Department's service list. Any requests for a hearing must be filed within 10 days of the publication of this notice in the Federal Register.

The Department will issue its final results of this review in accordance with 19 CFR 351.216(e), and will publish these results in the **Federal Register**.

This notice is in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216, 351.221(b), and 351.222(g)(3)(I).

Dated: June 26, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16726 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct an administrative review of the antidumping duty order on Certain Softwood Lumber Products from Canada. This order has a May

anniversary date. In accordance with the Department's regulations, we are initiating this administrative review.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2003), for an administrative review of the antidumping duty order on Certain Softwood Lumber Products from Canada. This order has a May anniversary date.

Initiation of Review

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating an administrative review of the following antidumping duty order. We intend to issue the final results of this review not later than May 31, 2004.

	Period to be reviewed
Antidumping Duty Processing	
Canada: Certain Softwood Lumber Products, A–122–838	05/22/02–04/30/03
100 Mile Wood Products Ltd.	
2 by 4 Lumber Sales Ltd.	
440 Services Ltd.	
5 Star Forest Industries Ltd.	
582912 B.C. Ltd. (DBA Paragon Wood Products, Lumby)	
A.J. Forest Products Ltd.	
A.L. Stuckless & Sons Limited	
Abitibi-Consolidated Company of Canada	
Abitibi-LP Engineered Wood Inc.	
Age Cedar Products	
Ainsworth Lumber Co. Ltd.	
Alberta Spruce Industries Ltd.	
Alliance Forest Product—Couturier Inc.	
Allmac Lumber Sales Ltd.	
Alpa Lumber Mills Inc.	
American Bayridge Corporation	
Antrim Cedar Corp.	
Apex Forest Products Inc.	
Apollo Forest Products Ltd.	
Aquila Cedar Products Ltd.	
Arbutus Manufacturing Ltd.	
Armand Duhamel et fils Inc.	
Ashley Colter (1961) Limited	
Aspen Planers Ltd.	
Atco Lumber Ltd.	
Atikokan Forest Products Ltd.	
AWL Forest Products	
Bakerview Forest Products Inc.	
Barrett Lumber Company Limited	
Barrette-Chapais Ltee	
Bathurst Lumber	
Beaubois Coaticook Inc.	
Blackville Lumber	
Blanchette et Balanchette Inc.	
Bloomfield Lumber Limited	
Bois Cobodex (1995) Inc.	
Bois Daaquam Inc.	
Bois de l'Est FB Inc.	
Bois d'oeuvre Cedrico Inc.	
Bois Neos Inc.	
Bois Omega Ltee	
Bois Rocam Inc.	
Boisaco Inc.	
Boscus Canada Inc.	
Boucher Brothers Lumber Ltd.	
Boucher Forest Products Ltd.	
Bowater Canadian Forest Products Incorporated	
Bridgeside Higa Forest Industries Ltd.	
Brittania Lumber Company Limited	
Brouwer Excavating Ltd.	
Brunswick Valley Lumber Inc.	
Buchanan Forest Products Ltd.	
Buchanan Lumber Sales Inc.	
Buchanan Northern Hardwoods Inc.	
Burrows Lumber Inc.	
BW Creative Wood	
Byrnexco Inc.	
C.E. Harrison & Sons Ltd.	
Caledon Log Homes (FEWO)	
Caledonia Forest Products Ltd.	

	Period to be reviewed
Cambie Cedar Products Ltd.	
Canadian Forest Products Ltd.	
Canadian Lumber Company Ltd.	
Cando Contracting Ltd.	
Canex International Lumber Sales Ltd.	
CanEx Lumber Ltd.	
Canfor Corporation	
Canwell Distribution Ltd.	
Canyon Lumber Company Ltd.	
Capital Forest Products Inc.	
Cardinal Lumber Manufacturing & Sales Inc.	
Carrier Forest Products Ltd.	
Carrier Lumber Ltd.	
Carson Lake Lumber	
Cedarland Forest Products Ltd.	
Central Cedar	
Centurion Lumber Manufacturing (1983) Ltd.	
Chaleur Sawmills	
Cheminis Lumber Inc.	
Cheslatta Forest Products Ltd.	
Chisholm's (Roslin) Ltd.	
Choicewood Products Inc.	
City Lumber Sales & Services Ltd.	
Clair Industrial Development Corp. Ltd. (Waska)	
Clareco Industries Ltd.	
Claude Forget Inc.	
Clearwood Industries Ltd.	
Coast Clear Wood Ltd.	
Colonia Fence Mfg. Ltd.	
Commonwealth Plywood Co. Ltd.	
Cooper Creek Cedar Ltd.	
Cooperative Forestiere Laterriere	
Corneau Lumber Ltd.	
Cottle's Island Lumber Co. Ltd.	
Coulson Manufacturing Ltd.	
Coventry Forest Products Ltd.	
Cowichan Lumber Ltd.	
Crystal Forest Industries Ltd.	
Curley's Cedar Post & Rail	
Cushman Lumber Co. Inc.	
D.S. McFall Holding Ltd.	
Dakeryn Industries Ltd.	
Davron Forest Products Ltd.	
Delco Forest Products Ltd.	
Delta Cedar Products Ltd.	
Deniso Lebel Inc.	
Devlin Timber Company (1992) Limited	
Devon Lumber Co. Ltd.	
Doman Forest Products Limited	
Doman Industries Limited	
Doman Western Lumber Ltd.	
Domexport Inc.	
Domtar Inc.	
Downie Timber Ltd.	
Drummond Lumber	
Dubreuil Forest Products Limited	
Duluth Timber Company	
Dunkley Lumber Ltd.	
E. Tremblay et fils Ltee	
E.R. Probyn Export Ltd.	
Eacan Timber Canada Ltd.	
Eacan Timber Limited	
Eacan Timber USA Ltd.	
East Fraser Fiber Co. Ltd.	
Eastwood Forest Products Inc.	
Edwin Blaikie Lumber Ltd.	
Elmira Wood Products Limited	
Elmasdale Lumber Company Limited	
Ernie Braumburger	
Evergreen Empire Mills Incorporated	
EW Marketing	
Excel Forest Products	
F.L. Dodogh Lumber Co. Ltd.	
Falcon Lumber Limited	

	Period to be reviewed
Faulkener Wood Specialities Ltd.	
Fawcett Lumber	
Federated Co-operative Limited	
Finmac Lumber Limited	
Fontaine Inc (dba J.A. Fontaine et fils Incorporee)	
Fraser Inc.	
Fraser Pacific Forest Products Inc.	
Fraser Pacific Lumber Company	
Fraser Pulp Chips Ltd.	
Fraserview Cedar Products Ltd.	
Frontier Mills Inc.	
Galloway Lumber Co. Ltd.	
Georgetown Timber Limited	
Georgian Bay Forest Products Ltd.	
Gestofor Inc.	
Gogama Forest Products	
Goldwood Industries Ltd.	
Goodfellow Inc.	
Gorman Bros. Lumber Ltd.	
Great Lakes MS Lumber Ltd.	
Great West Timber Ltd.	
Green Lake Metis Wood Products Ltd.	
Greenwood Forest Products (1983) Ltd.	
Groupe Cedrico Inc.	
Groupe de Scieries GDS Inc.	
H.A. Fawcett & Son Limited	
H.J Crabbe & Sons Ltd.	
Haida Forest Products Ltd.	
Hainesville Sawmill Ltd.	
Hansen Forest Products Ltd.	
Harry Freeman & Son Ltd.	
Hefler Forest Products Ltd.	
Hi-Knoll Cedar Inc.	
Hilmoe Forest Products Ltd.	
Hoeg Bros. Lumber Ltd.	
Holdright Lumber Products Ltd.	
Hudson Mitchell & Sons Lumber Inc.	
Hughes Lumber Specialities Inc.	
Hyak Speciality Wood	
Industrial Wood Specialities	
Industries Maibec Inc.	
Industries Perron Inc.	
Interior Joinery Ltd.	
International Forest Products Limited (Interfor)	
Isidore Roy Limited	
J.A. Turner & Sons (1987) Limited	
J.D. Irving, Limited	
J.H. Huscroft Ltd.	
J.S. Jones Timber Ltd.	
Jackpine Engineered Wood Products Inc.	
Jackpine Forest Products Ltd.	
Jamestown Lumber Company Limited	
Jasco Forest Products Ltd.	
Jean Riopel Inc.	
Jeffrey Hanson	
Jointfor (3207021) Canada, Inc.	
Julimar Lumber Co. Limited	
Kalesnikoff Lumber Co. Ltd.	
Kenora Forest Products Limited	
Kent Trusses Ltd.	
Kenwood Lumber Ltd.	
Kispiox Forest Products	
Kruger, Inc.	
L & M Wood Products (1985) Ltd.	
La Scierie Lachance Ltee	
Lacrete Sawmills Ltd.	
Lakeburn Lumber Limited	
Lakeland Mills Ltd.	
Landmark Structural Lumber	
Landmark Truss & Lumber Inc.	
Langevin Forest Products, Inc.	
Langley Timber Company Ltd.	
Lawson Lumber Company Ltd.	
Lecours Lumber Company	

	Period to be reviewed
Ledwidge Lumber Co. Ltd.	
Leggett & Platt	
Leggett Wood	
Les Bois d'Oeuvre Beaudoin & Gautheir Inc.	
Les Bois Lemelin Inc.	
Les Bois S&P Grondin Inc.	
Les Chantiers de Chibougamau Ltee	
Les Produits Forestiers D.G. Ltee	
Les Produits Forestiers Dube Inc.	
Les Produits Forestiers F.B.M. Inc.	
Les Produits Forestiers Maxibois Inc.	
Les Produits Forestiers Miradas Inc.	
Les Produits Forestiers Portbec Ltee	
Les Scieries du Lac St Jean Inc.	
Leslie Forest Products Ltd.	
Lignum Ltd.	
Linde Bros.ber Ltd.	
Lindsay Lumber Ltd.	
Liskeard Lumber Ltd.	
Littles Lumber Ltd.	
Lonestar Lumber Inc.	
Long Lake Forest Products Inc.	
LP Canada Ltd.	
LP Engineered Wood Products Ltd.	
Lulumco Inc.	
Lyle Forest Products Ltd.	
Lytton Lumber Ltd.	
M&G Higgins Lumber Ltd.	
M.F. Bernard Inc.	
M.L. Wilkins & Son Ltd.	
Mac Tara Limited	
Manitou Forest Products Ltd.	
Manning Diversified Forest Products Ltd.	
Maple Creek Saw Mills Inc.	
Marcel Lauzon Inc.	
Marwood Ltd.	
Materiaux Blanchette Inc.	
Max Meilleur & Fils Ltee	
McCorquindale Holdings Ltd.	
McKenzie Forest Products, Inc.	
McNutt Lumber Company Ltd.	
Medicine Lodge Timber Products Ltd.	
Mercury Manufacturing Inc.	
Meunier Lumber Company Ltd.	
Mid America Lumber	
Midland Transport Limited	
Midway Lumber Mills Ltd.	
Mill & Timber Products Ltd.	
Millar Western Forest Products Ltd.	
Millco Wood Products Ltd.	
Mobilier Rustique (Beauce) Inc.	
Moen Lumber	
Monterra Lumber Mills Limited	
Mostowich Lumber Ltd.	
Mountain View Specialty Products & Reload Inc.	
Murray A. Reeves Forestry Limited	
N.F. Douglas Lumber Limited	
Nakina Forest Product Limited	
Nechako Lumber Co. Ltd.	
Newcastle Lumber Co. Inc.	
Nexfor Inc.	
Nicholson and Cates Limited	
Nickel Lake Lumber	
Norbord Industries Inc.	
North American Forest Products Ltd.	
North Enderby Timber Ltd.	
North Mitchell Lumber Co. Ltd.	
North Shore Timber Ltd.	
North Star Pallets	
North Star Wholesale Lumber Ltd.	
Northchip Ltd.	
Northern Sawmills Inc.	
Northern Wood	
Northland Forest Products	

	Period to be reviewed
Olav Haavaldsrud Timber Company	
Olympic Industries Inc.	
Optibois Inc. 692	
Oyama Forest Products	
P.A. Lumber & Planing Mill	
Pacific Lumber Remanufacturing Inc.	
Pacific Northern Rail Contractors Corp.	
Pacific Western Woodworks Ltd.	
Pallan Timber Products (2000) Ltd.	
Palliser Lumber Sales Ltd.	
Pan West Wood Products Ltd.	
Paragon Ventures Ltd. (DBA Paragon Wood Products, Grindrod)	
Parallel Wood Products Ltd.	
Pastway Planing Limited	
Pat Power Forest Products Corp.	
Paul Vallee Inc.	
Peak Forest Products Ltd.	
Peter Thomson & Sons Inc.	
Phoenix Forest Products Inc.	
Pope & Talbot Inc.	
Porcupine Wood Products Ltd.	
Port Arthur Lumber & Planing Mill Ltd.	
Portbois	
Portelance Lumber Caperol Ltd.	
Power Wood Corp.	
Precibois Inc. 692	
Precision Lumber Products Inc.	
Preparabois Inc.	
Prime Lumber Limited	
Pro Lumber Inc.	
Produits Forestiers La Tuque Inc.	
Produits Forestiers Labrieville	
Produits Forestiers Lamco Inc.	
Produits Forestiers Petit Paris Inc.	
Produits Forestiers Temrex Usine St. Alphone, Inc.	
R. Fryer Forest Products Ltd.	
Raintree Lumber Specialities Ltd.	
Ramco Lumber Ltd.	
Redtree Cedar Products Ltd.	
Redwood Value Add Products Inc.	
Ridgewood Forest Products Ltd.	
Rielly Industrial Lumber, Inc.	
Riverside Forest Products Ltd.	
Rocky Wood Preservers Ltd.	
Rojac Cedar Products Inc.	
Rojac Enterprises Inc.	
Rouck Bros. Sawmill Ltd.	
Russell White Lumber Limited	
Sauder Industries Limited	
Sawn Wood Products	
Scierie Adrien Arseneault Ltee	
Scierie Beauchesne et Dube Inc.	
Scierie Gason Mortin Inc.	
Scierie Gauthier Ltee	
Scierie La Patrie, Inc.	
Scierie Landrienne Inc.	
Scierie Lapointe & Roy Ltee	
Scierie Laterriere Ltee	
Scierie Leduc	
Scierie Nord-Sud Inc.	
Scierie West Brome Inc.	
Scierie Norbois Inc.	
Scott Lumber Ltd.	
Selkirk Speciality Wood Ltd.	
Shawood Lumber Inc.	
Sigurdson Bros. Logging Co. Ltd.	
Sinclar Enterprises Ltd.	
Skana Forest Products Ltd.	
Skeena Cellulose Inc.	
Slocan Forest Products Ltd.	
Societe en Commandite Scieire Opitciwan	
Solid Wood Products Inc.	
South River Planing Mills Inc.	
South-East Forest Products Ltd.	

	Period to be reviewed
Spray Lake Sawmills (1980) Ltd.	
Spruce Forest Products Ltd.	
Spruce Products Limited	
St. Anthony Lathing Mills Ltd.	
St. Jean Lumber (1984) Ltd.	
Strachan Forest Products Ltd.	
Stuart Lake Lumber Co. Ltd.	
Sunbury Cedar Sales Ltd.	
SWP Industries Inc.	
Sylvanex Lumber Products Inc.	
T.P. Downey & Sons Ltd.	
Tara Forest Products	
Tarpin Lumber Incorporated	
Taylor Lumber Company Ltd.	
Teeda Corp.	
Tembec Inc.	
Terminal Forest Products Ltd.	
The Pas Lumber Co. Ltd.	
TimberWorld Forest Products Inc.	
T'loh Forest Products Limited Partnership	
Tolko Industries Lrd.	
Trans North Timber	
Transco Mills Ltd.	
Treeline Wood Products Ltd.	
Triad Forest Products, Ltd.	
Twin Rivers Cedar Products Ltd.	
Tyee Timber Products Ltd.	
Uniforet Inc.	
United Wood Frames Inc.	
Universal Reel & Recycling Inc.	
Usine Sartigan Inc.	
Vancouver Specialty Cedar Products Ltd.	
Vanderhoof Specialty Wood Products	
Vandermeer Forest Products (Canada) Ltd.	
Vanderwell Contractors (1971) Ltd.	
Vanport Canada Co.	
Vernon Kiln & Millwood Ltd.	
Visscher Lumber Inc.	
W.C. Edwards Lumber	
W.I. Woodtone Industries Inc.	
Welco Lumber Corporation	
Weldwood of Canada Limited	
Wentworth Lumber Ltd.	
Wernham Forest Products	
West Bay Forest Products & Manufacturing Ltd.	
West Can Rail Ltd.	
West Chilcotin Forest Products Ltd.	
West Fraser Mills Ltd.	
West Hastings Lumber Products	
Western Commercial Millwork Inc.	
Westmark Products Inc.	
Weston Forest Corp.	
West-Wood Industries Ltd.	
Weyerhaeuser Company	
White Spruce Forest Products Ltd.	
Wilkerson Forest Products Ltd.	
Williams Brothers Limited	
Winnipeg Forest Products, Inc.	
Woodko Enterprises, Ltd.	
Woodland Forest Products Ltd.	
Woodline Forest Products Ltd.	
Woodtone Industries, Inc.	
Wynndel Box & Lumber Co. Ltd.	
Zavisha Sawmills Ltd.	
Zelensky Brothers La Rouge Sawmill	

During any administrative review, covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or

producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

This initiation and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: June 26, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 03–16648 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–14A12.''

Northwest Fruit Exporters' (''NFE'') original Certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984) and previously amended on May 2, 1988 (53 FR 16306, May 6, 1988); September 21, 1988 (53 FR 37628, September 27, 1988); September 20, 1989 (54 FR 39454, September 26, 1989); November 19, 1992 (57 FR 55510, November 25, 1992); August 16, 1994 (59 FR 43093, August 22, 1994); November 4, 1996 (61 FR 57850, November 8, 1996); October 22, 1997 (62 FR 55783, October 28, 1997); November 2, 1998 (63 FR 60304, November 9, 1998); October 20, 1999 (64 FR 57438, October 25, 1999); October 16, 2000 (65 FR 63567, October 24, 2000); October 5, 2001 (66 FR 52111, October 12, 2001); and October 3, 2002 (67 FR 62957, October 9, 2002). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, Washington 98901–2149.

Contact: James R. Archer, Manager, Telephone: (509) 576–8004,

Application No.: 84–14A12.

Date Deemed Submitted: June 20, 2003.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Cervantes Packing and Storage, LLC, Sunnyside, Washington; Fox Orchards, Mattawa, Washington; and Garrett Ranches Packing, Wilder, Idaho;

2. Delete the following companies as ''Members'' of the Certificate: Keystone Fruit Co., L.L.C. dba Keystone Ranch, Riverside, Washington; Naumes, Inc., Chelan, Washington; Phillippi Fruit Co., Inc., Wenatchee, Washington; and Valicoff Fruit Company, Wapato, Washington; and

3. Change the listing of the following Members: ''Bertha's Marketing, Inc., Wenatchee, Washington'' to the new listing ''Bertha's Marketing Inc., Wenatchee, Washington''; ''Lloyd Garretson, Co., Yakima, Washington'' to the new listing ''Lloyd Garretson Co., Yakima, Washington''; ''Sund-Roy, L.L.C., Yakima, Washington'' to the new listing ''Sund-Roy L.L.C., Yakima, Washington''; ''Trout-Blue Chelan, Inc., Chelan, Washington'' to the new listing ''Chelan Fruit Company, Chelan, Washington''; and ''Valley Fruit III, LLC, Wapato, Washington'' to the new listing ''Valley Fruit III LLC, Wapato, Washington''.

Dated: June 25, 2003.

Vanessa M. Bachman,

Acting Director, Office of Export Trading, Company Affairs.

[FR Doc. 03–16514 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052803B]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Washington Department of Fish and Wildlife (WDFW) has submitted a Fisheries Management and Evaluation Plan (FMEP) pursuant to the protective regulations promulgated for Middle Columbia River (MCR) steelhead and Lower Columbia River (LCR) chinook salmon under the Endangered Species Act (ESA). The FMEP specifies the future management of inland recreational fisheries potentially affecting the MCR steelhead and LCR

chinook salmon. This document serves to notify the public of the availability of the FMEP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEPs must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on July 31, 2003.

ADDRESSES: Written comments and requests for copies of the draft FMEP should be addressed to Richard Turner, Salmon Recovery Division, Propagation, Tributary Fisheries, and Recovery Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to (503) 872–2737. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR, at phone number (503) 736–4737, or e-mail: *rich.turner@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Middle Columbia River steelhead (Oncorhynchus mykiss) and Lower Columbia River chinook salmon (*O. tshawytscha*) Evolutionarily Significant Units (ESU).

Background

WDFW has submitted to NMFS an FMEP (Mid-Columbia Region) for inland recreational fisheries potentially affecting listed adult and juvenile MCR steelhead and LCR chinook salmon. These include fisheries occurring in the Little White Salmon, White Salmon, Klickitat, Walla Walla, and Yakima Rivers. The objective of the FMEP is to harvest known hatchery-origin steelhead and salmon and other fish species in a manner that does not jeopardize the survival and recovery of the MCR steelhead and the LCR chinook salmon ESUs. All fisheries included in the FMEP will be managed such that the retention of adult steelhead that are not externally marked (i.e., do not have the adipose fin clipped) will be prohibited. Only hatchery-origin steelhead that are adipose-fin clipped may be retained. Tule fall chinook from the LCR chinook salmon ESU will also be harvested in tributary recreational fisheries. Impact levels to listed MCR steelhead and LCR chinook salmon are specified in the FMEP. Population viability analysis and risk assessments in the FMEP indicate the extinction risk for listed steelhead and salmon under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEP to assess the abundance of steelhead and salmon, determine fishery effort and catch of steelhead and salmon, and angler compliance. A review of compliance with the provisions of the FMEP will be conducted by WDFW annually and a comprehensive review to evaluate the effectiveness of the FMEP will occur at a minimum every 5 years.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule will not apply to activities associated with fishery harvest provided that those fisheries are managed in accordance with an FMEP that has been approved by NMFS and implemented in accordance with a letter of concurrence from NMFS.

As specified in § 223.203 (b)(4) of the ESA 4(d) rule, NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Dated: June 23, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16569 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061803C]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act. The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2003 in the Imnaha River subbasin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of Snake River salmon and steelhead, and the availability for public comment of a draft environmental assessment on the proposed action.

DATES: Written comments on the Secretary's pending determination and the draft assessment must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on July 16, 2003.

ADDRESSES: Written comments and requests for copies of the draft HGMPs should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to (208) 378–5699. The document is also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Herb Pollard at phone number: 208/378–5614, or e-mail: *herbert.pollard@noaa.gov*.

This notice is relevant to the Imnaha River subbasin population of the Snake River Spring/Summer Chinook salmon (*Oncorhynchus tshawytscha*) and Snake River steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Units (ESU).

Background

The Nez Perce Tribe has submitted to NMFS a Tribal Plan for recreational, ceremonial, and subsistence fisheries in 2003 potentially affecting threatened Snake River spring/summer chinook salmon in the Imnaha River basin. The Tribal Plan includes recreational fisheries specified by the Oregon Department of Fish and Wildlife that take place in the same waters and in the same time frame as the tribal ceremonial and subsistence fisheries. The Nez Perce Tribe and the State of Oregon have co-manager responsibilities for spring chinook salmon within the Imnaha River sub-basin and manage this salmon population under cooperative agreements. The objective of the Tribal Plan is to harvest spring chinook in a

manner that does not appreciably reduce the likelihood of survival and recovery of the ESU. Impact levels to the listed spring chinook populations in the ESU are specified in the Tribal Plan. Analysis of the predicted return of naturally and hatchery-produced spring chinook salmon to the Imnaha River basin in 2003 and the proposed harvest levels indicate that all hatchery brood stock and supplemental spawning and natural spawning escapement needs will be met after the proposed fisheries. A variety of monitoring and evaluation tasks to be conducted by the co-managers is specified in the Tribal Plan to assess the abundance of spring chinook and to determine fishery effort and catch of spring chinook. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and listed spring chinook populations are performing as expected will be done within and at the end of the proposed 2003 season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000 [50 CFR 223.209]), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for Imnaha River chinook salmon would appreciably reduce the likelihood of survival and recovery of the threatened Snake River spring/summer chinook salmon ESU.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000 [50 CFR 223.209]) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: June 23, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16570 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061803D]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of Final Determination and Discussion of Underlying Biological Analysis.

SUMMARY: NMFS has evaluated the joint resource management plan (RMP) for harvest of Puget Sound chinook salmon provided by the Puget Sound Treaty Tribes and the Washington Department of Fish and Wildlife (WDFW) pursuant to the protective regulations promulgated for Puget Sound chinook salmon under the Endangered Species Act (ESA). The RMP specifies the management of commercial, recreational and tribal salmon fisheries and steelhead net fisheries that potentially affect listed Puget Sound chinook salmon from May 1, 2003, through April 30, 2004. This document serves to notify the public that NMFS, by delegated authority from the Secretary of Commerce, has determined pursuant to the Tribal Rule and the government-to-government processes therein that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of the Puget Sound chinook salmon Evolutionarily Significant Unit (ESU).

DATES: The final determination on the take limit was made on May 20, 2003.

ADDRESSES: Sustainable Fisheries Division, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Susan Bishop at: (206) 526–4587, or e-mail: *susan.bishop@noaa.gov* regarding the RMP.

SUPPLEMENTARY INFORMATION:

This notice is relevant to the Puget Sound chinook salmon (*Oncorhynchus tshawytscha*) ESU.

Electronic Access: The full texts of NMFS' determination and the final Evaluation are available on the Internet at the NMFS, Sustainable Fisheries Division web site at: *http://www.nwr.noaa.gov/1sustfsh/limit6/index.html*.

Background

In February of this year, the Puget Sound Treaty Tribes and the WDFW (co-managers) provided a jointly developed RMP that encompasses Washington coastal and Puget Sound salmon fisheries affecting the Puget Sound chinook salmon ESU. The RMP is effective from May 1, 2003, through April 30, 2004. Harvest objectives specified in the RMP account for fisheries-related mortality of Puget Sound chinook throughout its migratory range, from Oregon and Washington to Southeast Alaska. The RMP also includes implementation, monitoring and evaluation procedures designed to ensure fisheries are consistent with these objectives. On April 2, 2003, at 68 FR 16001, NMFS published a notice of availability for public review and comment in the **Federal Register**, on its evaluation of how the Puget Sound chinook RMP addressed the criteria in Limit 4 of the ESA 4(d) rule (50 CFR 223.203 (b)(4)).

As required by § 223.203 (b)(6) of the ESA 4(d) rule, NMFS must determine pursuant to 50 CFR 223.209 and pursuant to the government-to-government processes therein whether the RMP for Puget Sound chinook would appreciably reduce the likelihood of survival and recovery of the Puget Sound chinook and other affected threatened ESUs. NMFS must take comments on how the RMP addresses the criteria in § 223.203 (b)(4) in making that determination.

Discussion of the Biological Analysis Underlying the Determination

The RMP's approach to establishing management objectives is risk averse and progressive, including: (1) management objectives, based on natural production and natural spawning, have been established for the majority of naturally producing populations which historically had self-sustaining chinook populations and for which data is available these management units represent the entire range of life history types (races) and geographic distribution that comprise the Puget Sound chinook salmon ESU; (2) the RMP derives exploitation rates based on conservative, quantifiable standards directly related to recovery, which take into account scientific uncertainty; (3) in isolating the effect of harvest on survival and recovery, the approach is valuable in ensuring that harvest actions do not impede recovery, regardless of the contribution of the other ''Hs'' (hatcheries, habitat, hydropower) at the same time, the approach is linked to the other Hs by taking into account current environmental and habitat conditions; and (4) the proposed objectives are generally consistent with NMFS' rebuilding exploitation rates (RER), population standards previously used to assess the likelihood of survival and recovery of the Puget Sound chinook salmon ESU. These standards included an assessment of the long-term effects of exploitation rates at these levels; (5) the RMP includes specific and integrated monitoring programs to maintain and improve population assessment methodologies as well as evaluate the

effectiveness of harvest management actions and objectives. The RMP also includes provisions for an annual report. This report will assess compliance with, parameter validation of, and effectiveness of the RMP objectives. A more detailed discussion of NMFS' evaluation is on the Sustainable Fisheries Division web site (see Electronic Access, under the heading, SUPPLEMENTARY INFORMATION).

Summary of Comments Received in Response to the Proposed Evaluation and Pending Determination

NMFS published notice of its Proposed Evaluation and Pending determination on the RMP for public review and comment on April 2, 2003 (68 FR 16001). The comment period closed on April 17, 2003. Washington Trout submitted comments to NMFS on the Proposed Evaluation and Pending Determination during this public comment period. No other comments were received during the public comment period. Several of the comments were addressed and reflected in NMFS' final Evaluation and Recommended Determination but no substantial changes were made in that document, and no changes were required of the 2003 RMP. NMFS considered all comments before issuing its final determination on the Puget Sound chinook RMP.

The public comments received and NMFS' response are summarized here. The commenter questioned the use of incomplete catch and escapement information in the calculation of exploitation rates. The commenter also questioned the uncertainty of the data, in particular as it related to estimating survival rates by age and mortality rates by fishery. NMFS recognizes that there will be some uncertainty associated with whatever information is available, and considers the degree of uncertainty when making its decisions. To address these uncertainties, the data analyses incorporated variability around the productivity and capacity stock-recruit parameters, survival variables and management error. In making its determination on the 2003 RMP, NMFS determined that the data uncertainties did not represent a substantial risk in the short term to the ESU, and that the benefits to the ESU in immediate implementation of the one-year plan outweighed the risks represented by the uncertainty in the data.

The commenter suggested that the potential changes in life history of chinook salmon due to the intensity of the fisheries for select biological traits (such as age, sex, or size) may be more than modest. Based on the best available information, the anticipated exploitation rates in 2003 are expected to result in no, or at worst modest, changes in the biological traits of these populations with the implementation of this 1–year 2003 RMP. However, NMFS recognizes the potential for selective effects of fisheries and will continue to monitor them.

The commenter suggested that some management units within this classification have exploitation rates greater then 50 percent, and in those cases the exploitation rate would appreciably slow rebuilding to viable function. NMFS' critical thresholds are consistent with the concepts in the Viable Salmon Populations (VSP) document (NMFS 2000b, as cited in the Evaluation and Recommended Determination), which includes the concept of depensatory mortality (see page 12 of NMFS 2000b, as cited in Evaluation and Recommended Determination). Based on past performances of the fisheries under similar conditions, the current status of the populations, and the preliminary 2003 return information, it is expected that the implementation of the 2003 RMP will not appreciably reduce the likelihood of the ESU's survival and recovery or preclude most populations' movement toward achieving viable VSP thresholds, as required by the ESA 4(d) rule.

The commenter suggested that improved survival may be more responsible for the observed increasing escapement trend. NMFS recognizes that it is a combination of factors that have contributed to the observed stable to increasing five-year trends in escapement, including harvest actions. Overall, escapements observed under the 2001 RMP have been some of the highest during the five-year period reviewed for Puget Sound chinook salmon populations. The management objectives in the 2001 RMP are similar to the management objectives in the 2003 RMP. Based on the past performances of the fisheries under similar conditions, the current status of the populations, and the preliminary 2003 return information, it is expected that the 2003 RMP will continue the stable to increasing 5–year trends in escapement.

The commenter questioned the appropriateness of allowing impacts on a below-critical threshold population merely because the 2003 RMP demonstrates that the likelihood of survival and recovery of the entire ESU in the wild would not be appreciably reduced. NMFS followed directions provided in the ESA 4(d) rule in assessing the effects of the RMP on populations below their critical thresholds, including the Dosewallips River and Nooksack River populations. The Dosewallips River population is within the Mid-Hood Canal Management Unit. The characteristics of this population, including life history and run timing, are represented by the other population in the Hood Canal region and by other populations within the ESU. Additionally, the role of the undefined spawning aggregations in the adjacent Hamma Hamma and the Duckabush Rivers in recovery and their relationship with the Dosewallips River population may be clarified as further information becomes available. Because it is possible that production in the Hamma Hamma and the Duckabush Rivers may contribute to the stability of the Dosewallips River population, NMFS' assessment of the impacts of the 2003 RMP on the Dosewallips should be considered conservative.

NMFS concludes in the Evaluation and Recommended Determination that the potential higher risk that the Dosewallips River population may be expected to experience in 2003, in this 1–year harvest management plan, will not appreciably reduce the likelihood of the ESU's survival and recovery.

Additional risk to the North Fork Nooksack River population may be expected in 2003, under the 2003 RMP, primarily due to the anticipated total exploitation rate, in which the Canadian fisheries will account for the majority of the exploitation, exceeding NMFS' rebuilding exploitation rate ceiling for this population. The treaty tribes have a right and priority to conduct their fisheries within the limits of conservation constraints. Because of the Federal government's trust responsibility to the tribes, NMFS is committed to considering the co-managers' judgment and expertise when it comes to the conservation of trust resources. However, the opinion of the co-managers and their immediate interest in fishing is balanced against NMFS' responsibilities under ESA. Based on these considerations, NMFS concluded in the Evaluation and Recommended Determination that the 2003 RMP Nooksack Management Unit's minimum fishery regime exploitation rate that would be imposed on the southern United States fisheries in 2003, in this 1–year 2003 RMP, achieves this balance.

Authority

Under section 4 of the ESA, NMFS, by delegated authority from the Secretary of Commerce, is required to adopt such regulations as it deems necessary and advisable for the conservation of the

species listed as threatened. The ESA salmon and steelhead 4(d) rule (50 CFR 223.203) specifies categories of activities that are adequately regulated to provide for the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the (4) (d) rule do not apply to actions undertaken in compliance with a RMP developed jointly by the State of Washington and the Tribes and determined by NMFS to be in accordance with the salmon and steelhead 4(d) rule, 50 CFR 223.203(b)(6).

Dated: June 23, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16571 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061803E]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of five scientific research permits/modifications (1140, 1156, 1309, 1315, 1376).

SUMMARY: Between April 21 and May 6, 2003, NMFS' Northwest Region issued the above noted research permits and permit modifications allowing endangered and threatened species of Pacific salmon and steelhead to be taken for scientific research purposes under the Endangered Species Act (ESA). The research actions and the species they affect are listed in the **SUPPLEMENTARY INFORMATION** section below.

ADDRESSES: The permits, permit applications, and related documents are available for review during business hours by appointment at NMFS' Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (phone: 503–230–5400, fax: 503–230–5435).

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (phone: 503–231–2005, fax: 503–230–5435, e-mail: *garth.griffin@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Authority

The ESA requires that permits and permit modifications be issued based on findings that such actions: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species that are the subject of the actions; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits, modifications, and amendments are issued in accordance with, and are subject to, the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Species Covered in This Notice

The ESA-listed species/evolutionarily significant units (ESUs) covered by this notice are identified below and listed in the subsequent table by the numbers that precede each of them in the following text:

(1) Threatened Puget Sound chinook salmon (*Oncorhynchus tshawytscha*)

(2) Threatened Lower Columbia River chinook salmon

(3) Threatened Snake River spring/summer chinook salmon

(4) Threatened Snake River fall chinook salmon

(5) Endangered Upper Columbia River spring-run chinook salmon

(6) Threatened Upper Willamette River chinook salmon

(7) Threatened Lower Columbia River steelhead (*O. mykiss*)

(8) Threatened Middle Columbia River steelhead

(9) Threatened Snake River steelhead

(10) Threatened Upper Willamette River steelhead

(11) Endangered Upper Columbia River steelhead

(12) Threatened Southern Oregon/Northern California Coasts coho salmon (*O. kisutch*)

(13) Threatened Oregon Coast coho salmon

Permits/Modifications Issued

TABLE 1. FIVE SCIENTIFIC RESEARCH PERMIT/MODIFICATION ACTIONS AFFECTING THREATENED AND ENDANGERED PACIFIC SALMON AND STEELHEAD

Permit Number	Affected Species/ESU	Permittee	FEDERAL REGISTER Notice of Application Receipt
1140	1	Northwest Fisheries Science Center	March 14, 2003 (68 FR 12342).
1156	1–13	U.S. Environmental Protection Agency	March 14, 2003 (68 FR 12342).
1309	1	King County Department of Natural Resources and Parks	March 14, 2003 (68 FR 12342).
1315	1	U.S. Corps of Engineers Seattle District	March 14, 2003 (68 FR 12342).
1376	1	Washington Cooperative Fish and Wildlife Research Unit	April 2, 2003 (68 FR 15997).

Dated: June 26, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16572 Filed 6–30–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–007]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

June 25, 2003.

Take notice that on June 18, 2003, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing a revised Precedent Agreement between Gulfstream and Florida Power Corporation (FPC).

Gulfstream states that the purpose of this filing is to comply with the order issued by the Commission on June 9, 2003, in Docket Nos. RP02–361–000, *et al.* (June 9 Order).

Gulfstream states that the instant filing complies with the directives of the June 9 Order by deleting certain provisions from the Precedent Agreement filed in this proceeding.

Gulfstream states that copies of its filing have been mailed to all affected customers, interested state commissions, and all parties listed on the Official Service List compiled by the Secretary of the Commission in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 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 30, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–16610 Filed 6–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–221–000]

High Island Offshore System, L.L.C.; Notice of Informal Settlement Conference

June 25, 2003.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10 a.m. on July 1, 2003, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Donald Heydt at (202) 502–8740, *donald.heydt@ferc.gov* or Irene Szopo at (202) 502–8323, *irene.szopo@ferc.gov*.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–16611 Filed 6–30–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–527–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

June 25, 2003.

Take notice that on June 20, 2003, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 20, 2003:

Sixth Revised Sheet No. 235
Sixth Revised Sheet No. 235A
Fourth Revised Sheet No. 736
Fourth Revised Sheet No. 738
Third Revised Sheet No. 739
Third Revised Sheet No. 740
First Revised Sheet No. 740A

Williston Basin states that it is proposing a number of changes to the provisions of its Receipt Point Operational Balancing Agreement (ROBA), which will enhance and provide for added flexibility for this service.

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 § 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: July 2, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16612 Filed 6–30–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2003–0026; FRL–7521–4]

Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on Renewal Information Collection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12:Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting (EPA ICR No. 1704.07, OMB No. 2070–0143). This ICR covers the reporting and record keeping requirements associated with reporting under the alternate threshold for reporting to the Toxics Release Inventory (TRI). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. EPA ICR No. 1704.06 was approved by OMB on March 10, 2003 with a shorter than usual clearance in order to provide the EPA an opportunity to examine in more detail the TRI burden estimates and opportunities for reducing burden and enhancing the practical utility of the data. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments, identified by the docket control number OEI–2003–0026, must be submitted on or before July 31, 2003.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION: For general information, contact The Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800)553–7672, *http://www.epa.gov/epaoswer/hotline/.* For technical information about this ICR renewal, contact: Judith Kendall, Toxics Release Inventory Program Division, OEI (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Telephone: 202–566–0750; Fax: 202–566–0727; email: kendall.judith@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

A. Affected Entities: Entities that will be affected by this action are those facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory (TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), to report annually to EPA their environmental releases of such chemicals.

Currently, those industries with the following SIC code designations (that meet all other threshold criteria for TRI reporting) must report toxic chemical releases and other waste management activities:

- 20–39, manufacturing sector
- 10, metal mining (except for SIC codes 1011, 1081, and 1094)
- 12, coal mining (except for SIC code1241 and extraction activities)
- 4911, 4931 and 4939, electrical utilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
- 4953, RCRA Subtitle C hazardous waste treatment and disposal facilities
- 5169, chemicals and allied products wholesale distributors
- 5171, petroleum bulk plants and terminals
- 7389, solvent recovery services, and
- Federal facilities in any SIC code

To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions at 40 CFR part 372 and section 4(a) of the Supporting Statement of the information collection. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. How Can I Get Additional Information or Copies of This Document and Other Support Documents?

A. In Person

The Agency has established an official public docket for this action under Docket ID no. OEI–2003–0026. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of this official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OEI Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202)566–1744, and the telephone number for the OEI Docket is (202)566–1752.

B. Electronic Availability

Electronic copies of the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (*http://www.epa.gov/fedrgstr/*). An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at *http://www.epa.gov/triinter/#forms.* An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http:www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public dockets, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number (*i.e.*, OEI–2003–0026).

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit II.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or *see* 67 FR 38102, May 31, 2002.

III. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number (*i.e.*, ''OEI–2003–0026) 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. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit IV. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

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. EPA Dockets. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OEI–2003–0026. 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.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to oei.docket@epa.gov. Attention Docket ID No. OEI–2003–0026. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, 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.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit III.2. below. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption. All comments and data in electronic form must be identified by the docket control number OEI–2003–0026. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

2. By Mail. Send three copies of your comments to: Document Control Office, Office of Environmental Information (OEI), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. By Hand Delivery or Courier. Comments may be delivered in person or by courier to: EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, attention Docket ID No. OEI–2003–0026.

IV. How Should I Handle CBI Information That I Want to Submit to the Agency?

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures set forth in 40 CFR part 2, subpart B. If a confidentiality claim does not accompany the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the submitter.

V. What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(a) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

VI. To What Information Collection Activity or ICR Does This Notice Apply?

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on October 31, 2003.

Title: Alternate Threshold for Low Annual Reportable Amounts.

ICR numbers: EPA ICR No. 1704.07, OMB No. 2070–0143.

Abstract: EPCRA section 313 requires certain facilities manufacturing, processing, or otherwise using certain toxic chemicals in excess of specified threshold quantities to report their environmental releases of such chemicals annually. Each such facility must file a separate report for each such chemical.

In accordance with the authority in EPCRA, EPA has established an alternate threshold for those facilities with low amounts of a listed toxic chemical in wastes. A facility that otherwise meets the current reporting thresholds, but estimates that the total amount of the chemical in waste does not exceed 500 pounds per year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year, can take advantage of reporting under the alternate threshold option for that chemical for that reporting year.

Each qualifying facility that chooses to apply the revised threshold must file the Form A Certification Statement (EPA Form 9350–2) in lieu of a complete TRI reporting Form R (EPA Form 9350–1). In submitting the Form A Certification Statement, the facility certifies that the sum of the amount of the EPCRA section 313 chemical in wastes did not exceed 500 pounds for

the reporting year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year. Use of the Form A Certification Statement represents a substantial savings to respondents, both in burden hours and in labor costs.

The Form A Certification Statement provides communities with information that the chemical is being manufactured, processed or otherwise used at facilities. Additionally, the Form A Certification Statement provides compliance monitoring and enforcement programs and other interested parties with a means to track chemical management activities and verify overall compliance with the rule. Responses to this collection of information are mandatory (*see* 40 CFR part 372) and facilities subject to reporting must submit either a Form A Certification Statement or a Form R.

VII. What Are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For this collection, it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The annual public burden for this collection of information, which is approved under OMB Control No. 2070–0143, is estimated to average 13.7 hours for facilities submitting a Form A Certification Statement for a single listed chemical. By comparison, the average time required for calculations, form completion and record keeping/mailing for Form R is estimated to average 19.5 hours per form. Thus, for a facility filing a Form A certification for a single chemical, the alternate threshold yields an average savings of 5.8 hours.

The ICR supporting statement provides a detailed explanation of the burden estimates that are summarized in this notice. The following is a summary of the estimates taken from the ICR supporting statement:

Estimated No. of Respondents: 5,200.

Frequency of Responses: Annual.

Estimated Total Annual Burden Hours: 169,106.

Estimated Total Annual Burden Costs: $7.56 million.

VIII. Are There Changes in the Estimates From the Last Approval?

The estimated burden described above differs from what is currently in OMB's inventory for alternate threshold reporting: 5,121 responses (Form A Certification Statements) and 463,670 burden hours. The burden estimated in this supporting statement differs from OMB's inventory as a result of adjustments to estimates of number of responses (from 5,121 responses to 5,000 responses), changes to subsequent year unit reporting burden estimates (from 30.2 to 9.2 burden hours per chemical certified on a Form A Certification Statement), and an adjustment for use of TRI–ME for those forms completed using TRI–ME. These changes are described in greater detail in the supporting statement for this ICR, available in the public version of the official record.

IX. What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: June 25, 2003.

Kimberly T. Nelson,

Assistant Administrator, Office of Environmental Information.

[FR Doc. 03–16584 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2003–0025; FRL–7520–9]

Toxic Chemical Release Reporting; Request for Comment on Renewal Information and Proposed Changes to Part II of the Form R Collection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to procedures described in 5 CFR 1320.12: Toxic Chemical Release Reporting (EPA ICR No. 1363.13, OMB No. 2070–0093). This ICR involves a collection activity that is currently approved and scheduled to expire on October 31, 2003. EPA ICR No. 1363.12 was approved by OMB on March 10, 2003, with a shorter than usual clearance in order to provide the EPA an opportunity to examine in more detail the TRI burden estimates and opportunities for reducing burden and enhancing the practical utility of the data. A revised draft Form R is included in this ICR. The redesigned draft Form R collects all the same information as the prior form; however, it collects that information in a different format. EPA is proposing this draft Form R based on feedback received from stakeholders in an effort to collect information in a more logical, simplistic manner. Section V below and sections 1 (b) and 3 (b) of the ICR Supporting Statement discuss the proposed Form R changes in greater detail. Also, a copy of the proposed new Form R and a crosswalk between the proposed Form R and the previous version of the Form R are included as Attachment G of the ICR Supporting Statement. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments, identified by the docket control number OEI–2003–0025 must be submitted on or before September 2, 2003.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information contact: The Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/*. For technical information about this ICR renewal contact: Judith Kendall, Toxics Release Inventory Program Division, OEI, Environmental Protection Agency (2844T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, Telephone: 202–566–0750;

Fax: 202–566–0727; e-mail: *kendall.judith@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

Affected Entities: Entities that will be affected by this action are those facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory (TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) to report annually to EPA their environmental releases and other waste management activities involving such chemicals.

Currently, those industries with the following SIC code designations (that meet all other threshold criteria for TRI reporting) must report toxic chemical releases and other waste management activities:

- 20–39, manufacturing.
- 10, metal mining (except for SIC codes 1011, 1081, and 1094).
- 12, coal mining (except for SIC code 1241 and extraction activities).
- 4911, 4931 and 4939, electrical utilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
- 4953, RCRA subtitle C hazardous waste treatment and disposal facilities.
- 5169, chemicals and allied products wholesale distributors.
- 5171, petroleum bulk plants and terminals.
- 7389, solvent recovery services, and
- Federal facilities in any SIC code.

To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions at 40 CFR part 372 and section 3(a) of the Supporting Statement of the information collection. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. How Can I Get Additional Information or Copies of This Document and Other Support Documents?

A. In Person

The Agency has established an official public docket for this action under Docket ID no. OEI–2003–0025. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of this official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OEI Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

B. Electronic Availability

Electronic copies of the ICR are available from the EPA home page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (*http://www.epa.gov/fedrgstr/).* An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at *http://www.epa.gov/triinter/#forms*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public dockets, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number (*i.e.*, OEI–2003–0025).

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

III. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number (*i.e.*, ''OEI–2003–0025'') 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. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit IV. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

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. EPA Dockets. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet home page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OEI–2003–0025. 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.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to oei.docket@epa.gov. Attention Docket ID No. OEI–2003–0025. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, 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.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit III.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption. All comments and data in electronic form must be identified by the docket control number OEI–2003–0025. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

2. By Mail. Send three copies of your comments to: Document Control Office, Office of Environmental Information (OEI), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. By Hand Delivery or Courier. Comments may be delivered in person or by courier to: EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, attention Docket ID No. OEI–2003–0025.

IV. How Should I Handle CBI Information That I Want to Submit to the Agency?

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures set forth in 40 CFR part 2, subpart B. If a confidentiality claim does not accompany the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the submitter.

V. What Information is EPA Particularly Interested in?

A. Pursuant to section 3506(c)(2)(a) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

B. Proposed changes to the Form R:

A revised draft Form R is included in this ICR. The draft Form R collects all the same information as the prior form; however, it collects that information in a different format. There are no changes to part I of the Form R. EPA is proposing changes to part II of the Form R based on feedback received from stakeholders through various venues (*e.g.*, Stakeholder Phase I process, ICR renewal process in 2002, letters, meetings, etc.). Specifically, stakeholders have been requesting that EPA provide more clarity in the organization of data that are collected. These changes do not collect any new or different information than has been previously collected. Instead part II now clearly identifies on the Form itself the categories for reporting releases and other waste management activities of toxic chemicals. The previous version of this form collected information using codes to specify categories of releases and other waste management activities (*e.g.*, M73 for Land Treatment). One code, U09—Other Energy Recovery Methods, has been dropped from the revised Form because this element is not applicable since the only energy recovery methods are combustion in a kiln, boiler or industrial furnace. Combustion units other than kilns, boilers and industrial furnaces are used for treatment of the toxic chemical (except for metal and metal compounds). This proposed revision incorporates these codes into the form so it is easier to identify the appropriate release or other waste management activity for the toxic chemical reported, and thus provides greater clarity to the information collected.

Also, in light of feedback received from stakeholders, EPA has broken the information collected on releases in section 8.1 of part II into four subcategories which are; total onsite uncontained releases; total onsite contained disposal; total offsite uncontained releases; and total offsite contained disposal. The category of contained disposal would include the quantities sent to on-site or off-site landfills and Class I Underground Injection Control wells. This would provide a more complete characterization of TRI chemicals in waste streams by distinguishing between releases to ambient media and releases to managed facilities consistent with environmental reporting requirements under other laws. The presence of only one of these factors is not considered enough to consider the release ''contained''; for example, regulated air stack emissions are clearly not contained releases. Therefore, all

release quantities other than quantities sent to on-site or off-site landfills and Class I Underground Inject Control wells would be included in the category of uncontained releases. This change and others are described in more detail in section 3(b) of the ICR Supporting Statement. Also, a draft of the proposed Form R and crosswalk table can be found in Appendix G of the ICR Supporting Statement.

EPA is interested in receiving comments on the proposed changes to the Form R and is particularly interested in receiving comment on whether the individual waste streams in section 5 are appropriately classified as either contained or uncontained for section 8. In addition, the Agency is soliciting input on whether the headings used in section 8 are appropriate to describe the intended categories.

VI. To What Information Collection Activity or ICR Does This Notice Apply?

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on October 31, 2003.

Title: Toxic Chemical Release Reporting.

ICR numbers: EPA ICR No. 1363.13, OMB No. 2070–0093.

Abstract: EPCRA section 313 requires owners and operators of certain facilities that manufacture, process, or otherwise use any of over 650 listed toxic chemicals and chemical categories in excess of applicable threshold quantities to report annually to the Environmental Protection Agency and to the states in which such facilities are located on their environmental releases and transfers of and other waste management activities for such chemicals. In addition, section 6607 of the Pollution Prevention Act (PPA) requires that facilities provide information on the quantities of the toxic chemicals in waste streams and the efforts made to reduce or eliminate those quantities.

Annual reporting under EPCRA section 313 of toxic chemical releases and other waste management information provides citizens with a more complete picture of the total disposition of chemicals in their communities and helps focus industries' attention on pollution prevention and source reduction opportunities. EPA believes that the public has a right to know about the disposition of chemicals within communities and the management of such chemicals by facilities in industries subject to EPCRA section 313 reporting. This reporting has been successful in providing communities with important information regarding the disposition of toxic chemicals and other waste management information of toxic chemicals from manufacturing facilities in their areas.

EPA collects, processes, and makes available to the public all of the information collected. The information gathered under these authorities is stored in a database maintained at EPA and is available through the Internet. This information, commonly known as the Toxics Release Inventory (TRI), is used extensively by both EPA and the public sector. Program offices within EPA use TRI data, along with other sources of data, to establish priorities, evaluate potential exposure scenarios, and undertake enforcement activities. Environmental and public interest groups use the data in studies and reports, making the public more aware of releases of chemicals in their communities.

Comprehensive publicly-available data about releases, transfers, and other waste management activities of toxic chemicals at the community level are generally not available, other than under the reporting requirements of EPCRA section 313. Permit data are often difficult to obtain, are not cross-media and present only a limited perspective on a facility's overall performance. With TRI, and the real gains in understanding it has produced, communities and governments know what toxic chemicals industrial facilities in their area release, transfer, or otherwise manage as waste. In addition, industries have an additional tool for evaluating efficiency and progress on their pollution prevention goals.

Responses to the collection of information are mandatory (*see* 40 CFR part 372). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

VII. What Are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For this collection, it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR supporting statement provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 19.5 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Entities potentially affected by this action are owners or operators of certain facilities that manufacture, process, or otherwise use certain specified toxic chemicals and chemical categories and are required to report annually on the environmental releases and transfers of waste management activities for such chemicals.

Estimated total number of potential responses: 84,000.

Frequency of response: Annual.

Estimated total annual burden hours: 2,403,867.

Estimated total annual burden costs: $106.2 million.

VIII. Are There Changes in the Estimates From the Last Approval?

As a result of OMB's 03/10/2003 approval of the last ICR renewal, OMB's inventory reflects 88,117 responses and 5,566,564 hours for this information collection. This ICR supporting statement is for 84,000 responses and 2,403,867 hours. The reduction in burden of approximately 3.16 million hours is the result of three adjustments.

The first adjustment is to the number of responses. The estimate of 88,117 responses in the existing OMB approval incorporated a predicted reporting increase from the economic analysis of the final rule to lower reporting thresholds for lead and lead compounds. This prediction overestimated actual reporting levels; EPA received about 70 percent of the additional lead and lead compound reports that were forecast. The number of responses in this ICR supporting statement have been adjusted to

accurately reflect actual reporting levels (rounded to the next highest thousand responses). This adjustment accounts for a decrease of about 218,000 hours.

The second adjustment is to the unit burden hours. EPA has adjusted the estimate of unit burden hours for Form R completion in subsequent years from 47.1 hours to 14.5 hours based on responses from actual TRI reporting facilities. This adjustment accounts for a decrease of about 2.68 million hours.

The third adjustment relates to the adoption of TRI–ME, an automated reporting software package. EPA has reduced the burden estimates related to Form R Completion and Recordkeeping/Submission by 25 percent for the reports filed using TRI–ME. On an annualized basis, an estimated 60 percent of reports are expected to be filed using TRI–ME over the three years of the ICR. This adjustment accounts for a decrease of about 261,000 hours.

The sum of these adjustments is a decrease of 4,117 responses and 3,162,697 burden hours from the current approved total. These adjustments are described in further detail in the supporting statement for this ICR, available in the public version of the official record.

IX. What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: June 25, 2003.

Kimberly T. Nelson,

Assistant Administrator, Office of Environmental Information.

[FR Doc. 03–16585 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL –7521–3]

Solicitation Notice; Children's Environmental Health Protection State Level Collaboration to Address Childhood Asthma Initiative, Fiscal Year 2003—USEPA–AO–OCHP–03–001

Fiscal Year 2003, Environmental Protection Agency, deadline for letter of intent, August 11, 2003; *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm.*

Contents

Section I—Overview
Section II—Dates and Deadlines
Section III—Addresses for Delivering Letters of Intent and Proposals
Section IV—Eligible Applicants and Activities
Section V—Funding Priorities
Section VI—Application Process
Section VII—Requirements for Letters of Intent and Full Proposals
Section VIII—Review and Selection Process
Section IX—Grantee Responsibilities
Section X—Other Information and Shipping
Attachment: Sample Letter of Intent Summary Sheet

Section I. Overview

A. Summary

This action known as the Solicitation Notice for the Children's Environmental Health Protection State Level Collaboration to Address Childhood Asthma Initiative, Fiscal Year 2003 announces the availability of funds from the Environmental Protection Agency's (EPA) Office of Children's Health Protection (OCHP), to support the efforts of state environment and health agencies together to minimize the environmental factors that exacerbate asthma symptoms in children.

B. Authorities

Section 103 of the Clean Air Act (CAA) authorizes EPA's Administrator to conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution by making grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations for purposes stated in section 103(a)(1) *http://www.epa.gov/oar/caa/caa103.txt.*

The goal of the Children's Environmental Health Protection program (hereinafter ''the Initiative'') is to minimize and/or eliminate children's exposure to environmental health threats— recognizing children's special vulnerability to these threats and recognizing the possibility of preventable childhood exposures leading to lifelong, irreversible consequences. This program is included within the Catalogue for Domestic Assistance (CFDA) listing number: 66.609 found at *http://www.cfda.gov.* This funding initiative will support planning and/or demonstration projects related specifically to the environmental triggers of childhood asthma.

C. Background

In recent years, EPA's Office of Children's Health Protection has encouraged and supported collaboration between state level health and environment agencies toward the end of building state capacity to combat childhood asthma.

Since the summer of 2001, the Environmental Council of the States (ECOS) has collaborated with the Association of State and Territorial Health Officials (ASTHO) and the U.S. Environmental Protection Agency to design a flexible template for state level strategies and actions to minimize environmental factors that contribute to asthma in children.

This focus on environmental factors complements the on-going Centers for Disease Control (CDC) state asthma program which recognizes the need to address environmental factors but does not explicitly provide guidance or support for this aspect of disease prevention and control. This action may also complement Housing and Urban Development's (HUD) Healthy Homes Initiative, which supports effective home assessment and intervention programs as well as public education.

Throughout 2002, ECOS, ASTHO, and EPA hosted a series of four workshops to refine the details of a cooperative approach in four specific areas: Data, environmental factors in homes, environmental factors in schools and child care facilities, and outdoor environmental factors.

The eligible funding categories and guiding principles of this Request for Applications are a reflection of the draft action agenda, Catching Your Breath, *http://www.astho.org/pubs/CatchingYourBreathReport.pdf* that resulted from this intensive collaborative visioning process.

D. Proposal Categories

The Initiative plans to award assistance agreements (grants and cooperative agreements) to state health and environment agencies and/or regional air authorities with formal delegated authorities with a project

period not to exceed 24 months in two main categories:

(1) Program planning projects;
(2) Program demonstration projects.

The specific funding priorities for each category are described in detail below.

E. Dollar Limits per Proposal

For this competition, the Initiative anticipates making available approximately $360,000 under this solicitation to fund approximately 9 to 12 awards. The dollar amount of each award will vary depending upon Initiative priorities, proposal quality and level of activity, and resource availability. Proposals for less than $20,000 or greater than $50,000 will not be considered. EPA reserves the right to reject all proposals and make no awards.

Projects not selected for award under this solicitation will be retained on file and made available to other EPA offices for potential funding for a period of one year from the date of receipt by EPA. This solicitation notice contains all the information and forms necessary to prepare a Letter of Intent. Should your Letter of Intent be approved, this solicitation package directs you to web and mailed sources of the application kit for a Full Proposal. If your Full Proposal is selected for possible award, your EPA Regional Office will supply you with additional Federal forms needed to process your Full Proposal for award.

Section II. Dates and Deadlines

F. Dates and Deadlines

(1) The Initiative Solicitation will be issued on or about July 11, 2003.

(2) *Letters of Intent are due to EPA via e-mail on or before August 11, 2003.*

(3) Confirmation of Receipt of the e-mailed Letter of Intent will be issued not more than 7 business days after receipt by the Agency. Applicant should follow-up by phone immediately to 202–564–2646 if acknowledgement from EPA is not received within this time period.

(4) Applicants submitting a Letter of Intent will be notified via e-mail on or before August 22, 2003 if they are deemed eligible to participate in the Pre-application Assistance Call and to submit a Full Proposal.

(5) Pre-application Assistance Call will be held on September 3, 2003. Applicants with accepted Letters of Intent who expressed an interest in participating in the Pre-application Assistance Call will be advised via e-mail of the call-in number.

(6) Due Date—October 6, 2003, for Full Proposals from invited eligible applicants to be delivered to the courier for shipment or postmarked (*see* note below re: postal mailing. Full Proposals shipped or mailed after this date will not be considered for funding under this solicitation.

(7) Applicants will receive an e-mail notification of receipt of the Full Proposal within one month of receipt by the Agency.

(8) Selected projects will be announced on or around December 1, 2003.

(9) *Start Date for Projects*—February 1, 2004, is the earliest start date that applicants should plan on and enter on their application forms and time lines. Grant recipients may begin incurring allowable costs on the start date identified in the EPA grant award agreement. Budget periods may run from 18–24 months.

(10) *Rejection Letters*—Rejection Letters are usually sent within 6 months after submission of the Full Proposal.

Section III. Addresses for Delivering Letters of Intent and Full Proposals

G. Letters of Intent

Letters of Intent should have an e-mail subject line starting with Letter of Intent: followed by your Project Title. The e-mail should be sent to *fletcher.bettina@epa.gov.*

H. Full Proposals if Invited by EPA

Full Proposals If Invited By EPA—Due to on-going mail delays in the Washington, DC area, applicants who are invited to submit a Full Proposal are strongly encouraged to send original Full Proposals signed by an authorized representative of their state organization by way of a private shipping company (*e.g.*, Federal Express, UPS, DHL, or courier) to the attention of: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20004.

If Full Proposals are mailed, send them to: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20460.

Section IV. Eligible Applicants and Activities

I. Eligible Applicants

To be eligible to compete for these assistance funds, applicants must:

(1) Meet standards for eligibility described in section 103(b)(3) of the CAA (*http://www.epa.gov/oar/caa/caa103.txt*).

(2) Represent one of the states from EPA Regions 2 through 10. States from EPA's Region 1 (CT, MA, ME, NH, RI, and VT) may not apply under this grant. Assistance programs in this area for these states were addressed through a different solicitation. *See* note below for the related Region 1 grant for which these states were eligible.

(3) Adhere to the provisions of The Executive Order 12372, ''Intergovernmental Review of Federal Programs'' (SPOC List) applies. *See http://www.whitehouse.gov/omb/grants/spoc.html* for further information.

(4) Demonstrate that you are a state health, or environment or a regional air authority with formal delegated authority. While only these agencies may be the direct recipients and lead project administrators of the project, other partners are eligible for compensation through sub-contracting agreement(s) between the lead agency and collaborating partners as long as the state agency maintains a substantive role in the project.

Projects that include and demonstrate a substantive and active collaboration between a state health agency and a state environment agency will be evaluated more favorably. (*See* selection criteria below). This collaboration could be reflected in activities such as:

(a) Both agencies dedicating personnel;

(b) Agencies co-sponsoring crucial meetings; or

(c) Both agencies being involved in peer reviews of documents and/or products.

J. Exceptions

(1) Special Note to EPA Region 1 States:

The EPA Region 1 states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont are expressly *excluded* from this funding Initiative. Funding was available directly from the Region 1 Office through a different solicitation known as the Healthy Communities Grant Program to support New England states' efforts in the arena of childhood asthma and related community-based endeavors. *See http://www.epa.gov/region01/grants/healthycommunities.html* or contact Sandra Padula at (617) 918–1797 for more information.

K. Multiple Proposals

State organizations within one state may submit more than one proposal if the proposals are for different projects. However, no more than one grant will be awarded to a state during the same fiscal year. State organizations are

encouraged to collaborate with joint proposals under this solicitation that is focused on bringing environment and health departments together to address environmental triggers of childhood asthma.

L. Eligible Expenses

(1) Salaries/fringe;

(2) Travel;

(3) Communications;

(4) Equipment rental;

(5) Indirect overhead;

(6) Public outreach efforts (workshops, public forums, meeting expenses);

(7) Office expenses;

(8) Printing and copying;

(9) Conference and promotional materials; and

(10) Web site dissemination of information related to the project.

M. Ineligible Expenses

(1) Capital improvements;

(2) Construction projects;

(3) Lobbying or political activities;

(4) Formal education;

(5) Entertainment;

(6) Remediation and removal ;

(7) Provision of medical equipment and supplies;

(8) Air sampling; and

(9) Grants solely for equipment purchases.

Section V. Funding Priorities

N. Solicitation Phases

All states have a long history of working on childhood asthma. However, asthma has been seen traditionally as a health issue alone. In the course of the ECOS/ASTHO work with the states, states have become increasingly aware of the need for state environment and health agencies to develop collaboratively state strategies and actions to minimize environmental factors that contribute to asthma in children. Applicants are strongly encouraged to review the ECOS/ASTHO state draft action agenda, Catching Your Breath, at *http://www.astho.org/pubs/CatchingYourBreathReport.pdf* to gain a full understanding of the work to date by the states.

To help states progress regardless of where they are on the continuum, OCHP has divided this solicitation into two parts or ''Phases,'' one for those states that are in the planning stages and one for states that are prepared to conduct demonstration projects to explore approaches to addressing the issues. These Phases are described below.

O. Funding Priorities and Sample Outcomes for Phase A Planning Projects

Note: States Receiving Planning Funding from the Centers for Disease Control (CDC): In order to be eligible for EPA planning funds, you must demonstrate that the activities you propose represent gaps in your current CDC work plan. For example, you might discuss how EPA funds will substantially enhance your ability to address the environmental components of the planning process.

(1) Guiding Principles

(a) Ensure that planning activities incorporate environmental factors relating to asthma.

(b) Ensure that the results are presented in terms that are sensitive and appropriate to the diverse languages and cultures of their audience.

(2) Funding Priorities

All planning proposals should include a strategic planning element that bridges state environment and health departments. Proposals may also focus on achieving results in one or more of the other Initiative areas listed below:

(a) *Strategic Planning:* Draft a statewide plan for addressing the environmental components of childhood asthma. This may be accomplished via a state Asthma Summit, a statewide series of participatory local forums, and/or any other process that results in a detailed statewide plan. Explicitly outline how official approval of this plan will be achieved.

Note: This strategic planning may be accomplished as a component of a larger state planning process to comprehensively address asthma. If the applicant is a CDC planning grant recipient, the strategic planning activities must substantially enhance the CDC-funded process and address environmental factors.

(b) *Surveillance:* Design a state level system to understand and uniformly track the burden of childhood asthma *as it relates to the environment.* This may include collection of environmental data as well as collection of health data. The surveillance plans could include a systematic evaluation of existing tracking mechanisms to identify data needs, best practices, information sharing opportunities, etc.

(c) *Coalition Building:* Build effective partnerships and/or coalitions to communicate, coordinate, and share resources. These coalitions of groups could include coordinated outreach to targeted communities; economic development including access to funds for building renovations that promote healthy indoor environments for schools or child care centers, etc.

(d) *Institutionalize Environmental Management of Asthma:* Develop a state policy/plan that integrates environmental management of asthma into asthma disease management programs offered to children covered under Medicaid and the State Children's Health Insurance Program.

(3) Sample Outcomes/Results for Phase A Planning Projects

(a) An Asthma Strategic Plan is developed and adopted by the state environmental and health organizations.

(b) Coalition ''Charter'' is developed, detailing: membership responsibilities, bylaws, vision or mission statement, leadership responsibilities, and a budget (funding sources secured and allocated.)

(c) An integrated tracking system is established that can be used meaningfully by both health professionals and environmental agencies.

(d) A coalition is formed that facilitates the procurement of low cost materials for building renovations.

P. Funding Priorities and Sample Outcomes for Phase B Demonstration Projects

Note: Phase B Demonstration Project funding is intended for the development and evaluation of new approaches and is expressly NOT to be used to execute ongoing state programs.

(1) Guiding Principles

(a) Ensure that education, training, and outreach efforts are sensitive to and appropriately address the diverse languages and cultures of their audiences.

(b) Data should be gathered, analyzed, and presented at the ''smallest'' level possible—smallest geographic area, shortest possible time frame, smallest age range, etc.

(c) Consider utilizing existing programs and materials from EPA and other sources prior to developing new tools. Examples of existing resources include: EPA's IAQ Tools for Schools, Smoke-free Home Pledge Campaign and public service announcement (PSA) and Asthma brochures, PSAs and media campaign.

(2) Funding Priorities

Proposals should focus on achieving results in one or more of the Initiative areas listed below:

(a) *Collection, Integration and Use of Health and Environmental Data:* Eligible activities include but are not limited to: Implementing new asthma surveillance system(s); designing/

implementing needed environmental data gathering system(s); integrating existing health data and environmental data; analyzing health and environmental data; making the results of data collection available to the public;

(b) *Addressing Environmental Factors at Home:* Eligible activities include but are not limited to: Coordinating with existing home assessment programs to include an asthma component; implementing effective approaches to eliminate children's exposure to environmental tobacco smoke such as EPA's Smoke-free Home Pledge Campaign; assisting families in recognizing and preventing/ eliminating five common indoor asthma triggers at home such as second-hand smoke, house dust mites, cockroaches, mold and animal dander; working with housing authorities and/or landlords to improve indoor environmental quality in low-income and rental housing; educating special audiences like the media and medical professionals on strategies for reducing environmental triggers; developing innovative approaches to fund and/or receive reimbursement for in-home interventions (education and mitigation techniques) through public (*e.g.* Medicaid and State Children's Health Insurance Programs) and/or private health insurance; etc.

(c) *Addressing Environmental Factors at Schools & Child Care Facilities:* Eligible activities include but are not limited to: Implementing education programs, such as EPA's Indoor Air Quality Tools for Schools Program, for child care and school personnel on improving indoor environmental quality to minimize triggers; implementing state policies/plans to improve indoor environmental quality and environmental health in schools and/or child care facilities; developing and promoting state policies/plans to address existing environmental health problems and prevent new ones; developing and promoting state policies/plans to ensure proper building maintenance including funding needs; developing and promoting state policies/plans for environmentally sound school design and construction protocols; increasing the efficacy of coordinated school health teams to address the needs of students with asthma; etc.

(d) *Addressing Outdoor Environmental Factors:* Eligible activities include but are not limited to: Implementing steps to reduce children's exposure to diesel exhaust; investigating and/or disseminating findings about health risks associated with burning; investigating the connection between hazardous air pollutants and asthma; designing and implementing systems to forecast air quality (to help people take steps to protect their own health as well as reduce the activities that cause pollution); developing and disseminating guidelines for low pollen planting, especially in areas designed for use by children; etc.

(3) Sample Outputs and Outcomes for Asthma Projects

(a) Number of households of children with asthma that have reported reduced exposure to indoor asthma triggers.

(b) Number and names of public health organizations (HMOs, corporate wellness programs, hospitals) urging education and action to reduce the exposure of people with asthma to indoor asthma triggers, action on secondhand tobacco smoke exposure, and/or IAQ management in schools.

(c) Decreased numbers of: ER visits, in-patient hospital admissions, sick visits to primary care physicians for asthma, school days missed, rescue medication uses.

(d) Increased numbers of: symptom-free days.

(e) Estimated cost savings.

Section VI. Application Process

Q. Application Process

The application process involves two stages:

Stage 1: Letter of Intent (up to 2 pages). Letters of Intent submitted to EPA will be screened for basic eligibility and administrative responsiveness. Only those proposals satisfying all the basic requirements will be invited to submit a Full Proposal.

Stage 2: Full Proposal submission (preceded by opportunity to participate in optional Pre-proposal Assistance Call).

Note: *See* section VIII. Requirement for Letters of Intent and Full Proposals for the content and formats required for the Letters of Intent and Full Proposal.

Section VII. Requirements for Letters of Intent and Full Proposals

R. Stage 1: Letter of Intent (Up to two pages)

A Letter of Intent is due via e-mail to *fletcher.bettina@epa.gov* on or before August 11, 2003. Letters of Intent should have an e-mail subject line starting with Letter of Intent: followed by your Project Title. A sample Letter of Intent is provided as an attachment to this solicitation. A copy also can be found at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm.* Your Letter of Intent must provide all of the following information:

(Section 1) Contact information for your organization:

(a) Name of your organization;

(b) Project name;

(c) Name of authorized representative;

(c) Address;

(d) Phone number and fax number;

(e) E-mail address;

(d) Web site, if any.

(Section 2) A brief description of how your agency proposes to collaborate with sister state agency(ies).

(Section 3) One page project summary including:

(a) Description of the organizational unit which will lead/oversee the project;

(b) A brief summary statement that articulates the project's concept and states its goals and objectives;

(c) Identification of the funding priority addressed by the project;

(d) A brief summary of the method that will be used to achieve the project goals; and

(e) Summary of the kinds of activities that will be funded by the project.

(Section 4) Indication of Interest in Participating in optional Pre-application Assistance Call and Special Needs:

(a) Indication if you would like to participate in the September 3, 2003, Pre-application Assistance Call if your Letter of Intent is accepted.

Note: Letters of Intent submitted to EPA will be screened for basic eligibility and administrative responsiveness. Only those proposals satisfying all the basic requirements will be invited to submit a Full Proposal; and

(b) Indication of any special needs to permit participation on such a call.

(Section 5) Nomination of questions to be answered on the call.

S. Stage 2: Full Proposals (Including Optional Pre-Proposal Assistance Conference Call)

Note: If your Letter of Intent is accepted, you will be invited to participate in Stage 2.

(1) Optional Pre-proposal Assistance Conference Call. An optional Pre-proposal Assistance Conference Call will be held on September 3, 2003, to answer any questions prospective eligible applicants may have. If you indicate in your Letter of Intent a desire to participate in the Pre-proposal Assistance Conference Call *and* your Letter of Intent is found to be eligible, you will be emailed instructions for participating in the conference call.

Note: Applicants should periodically check the Web page below for updated information to applicants (*e.g.* posting of some Qs&As from Letters of Intent). Questions and answers from the September 3, 2003, Pre-

application Assistance Call will be posted by September 10, 2003, at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm.*

(2) Full Proposal (You must complete both (a) the EPA Application Kit for Federal Assistance and (b) the Work Plan Proposal Narrative as described below).

(a) EPA Application Kit for Federal Assistance

The EPA Application Kit for Federal Assistance can be obtained on the Web at *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* or *http://www.epa.gov/ogd/grants/how_to_apply.htm.* The second Web site also contains information on completing SF–424A Budget Forms and Understanding Cost Principles for a Federal grant.

(b) Work Plan Proposal Narrative

In addition to the standard forms contained in the EPA Application Kit for Federal Assistance, you must submit a Work Plan Proposal Narrative of no greater than 10 pages (plus appendices) that follows *exactly* the format outlined below. Text may be single or double spaced, no smaller than 12 point font. The pages must be letter sized (8½ x 11 inches). Margins are not specified. Proposals must be legible. This format is the same whether you are applying for support for a Phase 1 Planning Project or a Phase 2 Demonstration Project.

(i.) *Contact Information Sheet (1 pg.):* For the project lead and each collaborating partner, include contact name, organization, title, address, phone, fax, and e-mail.

(ii.) *One Page Project Summary (1 pg.):*

Note: All proposals should be well explained and easily read. Information should be clear and concise, well organized and contain no unnecessary jargon. Content should include:

(aa) Description of the organizational unit that will lead/oversee the project.

(bb) Brief summary statement that articulates the project's concept and states its goals and objectives.

(cc) Identification of the funding priority addressed by the project.

(dd) Brief summary of the method that will be used to achieve the project goals.

(ee) Summary of the kinds of activities that will be funded by the project.

(iii.) *Project Description (Up to 5 pages):* Describe precisely what your project will achieve. In your narrative, be sure to answer these questions in this order:

(aa) Who will conduct the project? What experience do the partners have in addressing environmental triggers of childhood asthma? What is the nature of your on-going programs addressing children's environmental health. What will be the roles and responsibilities of each partner? Who will be affected by and/or benefit from your project? How will they be targeted, identified, and recruited?

(bb) Why is it needed?

(cc) What is the purpose of your project? Explain your strategy—your goals and objectives, the specific activities you will conduct to achieve them, and what your projected outcomes will be. How will you evaluate your results and your level of success? Describe any mechanisms for tracking Initiative outputs (*e.g.* how many households were educated, how many homes were assessed, in how many homes were actions taken), and evaluating Initiative outcomes (*e.g.* the effectiveness of the education and mitigation methods, the level of increased awareness); How will the project be sustained beyond the life of the EPA grant?

(dd) How will project deliverables and/or findings be presented/packaged to be shared with and replicated by other states?

(ee) All projects should be completed prior to February 1, 2006. Outline a detailed time line/responsibility matrix to link your project activities to a clear project schedule. Indicate at what point over the months of your budget period each action, project outcome or milestone occurs and indicate which partner is responsible for each action.

(iv.) *Project Budget (1–2 pgs.):* Articulate how funds will be used for specific items and activities. Your budget should include some if not all of the following major categories of expenses: personnel (salaries and fringe), travel, equipment, supplies, contract costs, and indirect costs.

(aa) Eligible Expenses: salaries/fringe, travel, communications, equipment rental, indirect overhead, public outreach efforts (workshops, public forums, meeting expenses), office expenses, printing and copying (conference and promotional materials), and web site dissemination of information related to the project.

(bb) Ineligible Expenses: capital expenditures, construction expenses, lobbying, endowments, formal educational expenses, entertainment, remediation and removal expenses, medical equipment and supplies, air sampling, and equipment purchases as the sole focus of the assistance agreement.

(v.) *Appendices:* As appropriate and relevant, include letters of commitment from major partners and resumes for key personnel as appendices. Be sure letters of commitment focus on the partner's role in the proposed project. Do not include any materials other than letters of commitment and resumes.

T. Contents of Full Proposal Package

To support the EPA review process, the proposal must contain eight hard copy sets of the following materials in the order listed below:

(1) Completed EPA Application Kit for Federal Assistance and;

(2) Work Plan Proposal Narrative consisting of:

(a) Contact Information Sheet;

(b) Project Summary;

(c) Project Description;

(d) Project Budget; and

(e) Appendices exactly as defined in Section VIII. Requirements of Letters of Intent and Full Proposals.

Please do not submit additional items. Unnecessary materials (cover letters, un-requested forms or binders create extra burden for the reviewers and failure to follow instructions may lower your score.

Section VIII. Review and Selection Process

U. Scoring (Maximum Score: 110 Points)

(1) Reviewers will score each Full Proposal based on how well it:

(a) Demonstrates substantive collaborative partnerships between state environment and health agencies and demonstrates that project organizations and personnel have the skills and experience necessary to ensure success. (25 points)

(b) Demonstrates that project will address a clear and previously unmet need and identifies who will benefit from the project. (15 points)

(c) Establishes reasonable/realistic goals and objectives (including reasonable time frames); Clearly outlines a cogent strategy for achieving, tracking, and demonstrating meaningful results; Outlines how results and the level of project success will be evaluated; and outlines how the project will be sustained beyond the funding cycle. (40 points)

(d) Outlines a clear and cost effective budget for proposed project. (15 points)

(e) Provides a useful mechanism for project results, such as product deliverables and lessons learned, to be shared and applied in other states. (5 points)

(2) *Bonus Points (Up to 10):* Reviewers have the flexibility to provide up to 10 bonus points for exceptional project qualities in accordance with one or more of the following principles of quality and efficacy:

(a) Applicant's proposed work targets disproportionately impacted (with respect to asthma severity or incidence) children.

(b) Applicant's materials are consistent with EPA guidance and recommendations. In particular, applicant outlines educational materials and mitigation methods for second-hand tobacco smoke, house dust mites, cockroaches, molds, and animal dander that are compatible with the guidance contained in EPA's asthma brochure, A Clear Your Home of Asthma Triggers: Your Children will Breathe Easier *http://www.epa.gov/asthma/resources.html* and the findings and recommendations contained in the January 2000 National Academy of Sciences report on asthma, A Clearing the Air: Asthma and Indoor Air Exposures *http://books.nap.edu/catalog/9610.html.*

(c) Projects focused upon ambient air pollutants and asthma should be consistent with EPA guidance that can be accessed through *http://www.epa.gov/air/topics/comap.html.*

(d) Use of education materials reflecting current standards for conducting environmental health or public health education and outreach activities, particularly with respect to motivating behavioral changes in low-literacy, low-income, and disproportionately impacted populations. (This is not relevant for Phase A Planning Projects).

(e) Proposals including extraordinarily compelling examples and other strengths noted by the reviewers who evaluate and compare proposals.

V. Proposal Selection

Letters of Intent submitted to EPA will be screened for basic eligibility and administrative responsiveness. Only those proposals satisfying all the basic requirements will be invited to submit a Full Proposal.

Full Proposals submitted (by invitation) to EPA will be evaluated screened again to confirm basic eligibility and administrative responsiveness, especially completeness. Those Full Proposals satisfying administrative requirements will enter the full evaluation phase review process. Full Proposals will be evaluated based upon the quality of their work plans. Reviewers conducting the screening and evaluation will be EPA Headquarters, Regional and Program Office personnel. At the conclusion of the evaluation phase, the reviewers will score Full Proposals based upon the scoring system described in detail above in section VIII of this solicitation.

W. Final Selections

After individual projects are evaluated and scored by reviewers, as described above, EPA officials from Headquarters and Regions will select a diverse range of finalists from the highest ranking Full Proposals. In making the final selections, EPA will take into account geographic distribution.

X. Notification to Applicants

Applicants will receive an email notification of receipt of the Letter of Intent not more than 7 business days after receipt by the Agency. Applicants with successful Letters of Intent will be invited on or before August 22, 2003 if they are deemed eligible to participate in the optional Pre-application Conference Call and to submit a Full Proposal. Applicants will receive an email notification of receipt of the Full Proposal within one month of receipt by the Agency. Usually within six months of application, EPA will contact finalists to request additional federal forms and other information as recommended by reviewers. Rejection Letters are usually sent within 6 months after submission of the Full Proposal.

Section IX. Grantee Responsibilities

Y. Responsible Officials

Projects must be performed by the applicant or by a person satisfactory to the applicant and EPA. All proposals must identify any person other than the applicant who will assist in carrying out the project. These individuals are responsible for receiving the grant award agreement from EPA and ensuring that all grant conditions are satisfied. Recipients are responsible for the successful completion of the project.

Z. Incurring Costs

No pre-award costs should be incurred by the recipient. Grant recipients may begin incurring allowable costs on the start date identified in the EPA grant award agreement. Activities must be completed and funds spent within the time frames specified in the award agreement. EPA grant funds may be used only for the purposes set forth in the grant agreement and must conform to the Federal cost principles contained in OMB Circular A–87; A–122; and A–21, as appropriate. Ineligible costs will be reduced from the final grant award.

AA. Reports and Work Products

Specific financial and other reporting requirements will be identified in the EPA grant award agreement. Grant recipients must submit formal quarterly progress reports, unless otherwise instructed in the award agreement. Also, two copies of the final report and two copies of all work products must be sent to the EPA project officer within 90 days after the expiration of the budget period. This submission will be accepted as the final requirement, unless the EPA project officer notifies you that changes must be made.

Section X. Other Information and Shipping

BB. Resources

(1) Please visit our Web site for information on children's environmental health issues and these grant materials at *http://yosemite.epa.gov/ochp* and *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm,* respectively.

(2) We *strongly* suggest that applicants examine the ECOS/ASTHO state draft action agenda, Catching Your Breath, *http://www.astho.org/pubs/CatchingYourBreathReport.pdf* for background on State/asthma activities.

(3) First time recipients of Federal funds are encouraged to familiarize themselves with the regulations applicable to assistance agreements found in the Code of Federal Regulations (CFR) title 40, part 31 for State and local government entities. *See http://www.epa.gov/docs/epacfr40/chapt-I.info/subch-B.html.* You may also obtain a copy of the CFR title 40, part 31 at your local U.S. Government Bookstore, or through the U.S. Government Printing Office. This solicitation notice contains all the information and forms necessary to prepare a Letter of Intent. If your project is selected as a finalist after the evaluation process is concluded, EPA will provide you with additional Federal forms needed to process your Full Proposal.

CC. Regulatory References

EPA's general assistance regulations at 40 CFR part 31 apply to state governments.

DD. Federal Procedures

(1) Optional Pre-proposal Assistance Conference Call for eligible applicants based upon EPA review of the Letter of Intent has been scheduled for September 3, 2003. Eligible applicants who indicated in their Letter of Intent a desire to participate on the call will be advised via email of call-in procedures prior to the call.

(2) Dispute Resolution Process: Procedures are in 40 CFR 30.63 and 40 CFR 31.70.

EE. Shipping and Mailing Addresses and Information

Applicants who need more information about this grant or clarification about specific requirements of this Solicitation Notice, should periodically check the Web page *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm* for posted information (*e.g.,* administrative clarification and responses to Q's & A's from Letters of Intent and participate, if eligible, in the Pre-proposal Assistance Conference Call.)

Note: To ensure fair and open competition, EPA will answer no questions except on the pre-application conference call.

Questions and answers from the September 3, 2003, Pre-application Assistance Call will be posted within a week of the Assistance Call on the OCHP Web page at: *http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm.*

If paper copies of the EPA Application Kit for Federal Assistance are required, contact Bettina B. Fletcher at 202–564–2646.

Letters of Intent should be e-mailed to: *fletcher.bettina@epa.gov.*

Full Proposals If Invited By EPA—Due to on-going mail delays in the Washington, DC area, applicants who are invited to submit a Full Proposal are strongly encouraged to send original Full Proposals signed by an authorized representative of their state organization by way of a private shipping company (*e.g.*, Federal Express, UPS, DHL, or courier) to the attention of: Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20004.

If Full Proposals are mailed, send them to:Bettina Fletcher, U.S. EPA, Office of Children's Health Protection, 1200 Pennsylvania Ave, NW., Mail Code 1107A, Room 2512 Ariel Rios North, Washington, DC 20460.

Sample Letter of Intent Summary Sheet (Up to 2 Pages)

All state organizations who intend to apply should complete this form and return it to EPA via e-mail to *fletcher.Bettina@epa.gov* by August 11, 2003.

Section 1

Organization Name:
Project Name:
Applicant Address: _____
Street City State Zip Code
Applicant Phone Number:
Applicant Email Address:
Authorized Representative of the Organization:
Applicant FAX Number:
Applicant Web Site (if any)

Section 2

Brief description of your agency and how your agency proposes to collaborate with sister state agency(ies) in this project.

Section 3

Project Summary (Not to Exceed One Page)

Description of the organizational unit that will lead/oversee the project:

Brief summary statement that articulates the project's concept and states its goals and objectives:

Identification of the funding priority addressed by the project:

Brief summary of the method that will be used to achieve the project goals:

Summary of the kind of activities that will be funded by the project:

Section 4

Indicate below whether your agency would like to participate in the September 3, 2003, Pre-application Assistance Call if your letter of intent is found to be eligible. *Questions and answers from the September 3, 2003, Pre-application Assistance Call will be posted by September 10, 2003, at: http://yosemite.epa.gov/ochp/ochpweb.nsf/content/grants.htm.*

- Yes, I would like to participate in the September 3, 2003, Pre-application Assistance Call if my Letter of Intent is found by EPA to be eligible.
- No, I decline to participate in the September 3, 2003, Pre-proposal Assistance Call if my Letter of Intent is found by EPA to be acceptable.
- Please describe any type of support (*e.g.,* Telephone for the Deaf (TDD) number and/or Federal Information Relay (FIR)) you require to permit participation in the Pre-application Assistance Conference Call.

Section 5

To help us prepare for the best possible Pre-Application Assistance Call, please submit in advance any questions you have at this time regarding this application process. Additional questions may also be posed on the call.

Dated: June 24, 2003.

Joanne Rodman,

Acting Director, Office of Children's Health Protection.

[FR Doc. 03–16583 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL –7521–5]

Science Advisory Board; Advisory Council on Clean Air Compliance Analysis; Notification of Upcoming Public Teleconferences

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Advisory Council on Clean Air Compliance Analysis (Council) is announcing two public teleconferences by its Special Council Panel for the Review of the Third 812 Analysis and its subcommittee, the Air Quality Modeling Subcommittee (AQMS).

DATES: July 11, 2003. A public teleconference call meeting for the AQMS will be held from 11 a.m. to 12:30 p.m. (Eastern Time).

July 11, 2003: A public teleconference call meeting for the Special Council Panel will be held from 12:30 p.m. to 2:30 p.m. (Eastern Time).

July 15, 2003: A public teleconference call meeting for the Special Council Panel will be held from 12 p.m. to 2 p.m. (Eastern Time).

ADDRESSES: Participation in all teleconferences will be by teleconference only. The meeting location for the September 23–24, 2003 meeting for the Special Council Panel will be held in Washington, DC. The meeting location will be announced on the SAB Web site, *http://www.epa/sab* two weeks before the meeting.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code to participate in any of the teleconference meetings may contact Ms. Sandra Friedman, EPA Science Advisory Board Staff, at telephone/voice mail: (202) 564–2526, via e-mail at: *friedman.sandra@epa.gov*. Any member of the public wishing further information regarding the Council, the Special Panel, or the AQMS may contact Dr. Angela Nugent, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board by telephone/voice mail at (202) 564–4562 or via e-mail at *nugent.angela@epa.gov*. General information about the SAB can be found in the SAB Web site at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, Notice is given that the Advisory

Council on Clean Air Compliance Analysis (Council) Special Council Panel for the Review of the Third 812 Analysis will hold two public teleconferences, as described above, on the Agency's plan to develop the second prospective study, the third in a series of statutorily mandated comprehensive analyses of the total costs and benefits of programs implemented pursuant to the Clean Air Act. Notice is also given that the Council's AQMS will hold a public teleconference. Background on the Council, its subcommittees, and on the advisory project was provided in a **Federal Register** notice published on February 14, 2003 (68 FR 7531–7534).

The Council Special Panel will be providing advice on a revised version of the document, ''Benefits and Costs of the Clean Air Act 1990–2020; Revised Analytical Plan for EPA's Second Prospective Analysis' currently found at the following Web site, maintained by EPA's Office of Air and Radiation at: *http://www.epa.gov/oar/sect812/*. An updated analytical plan and revised charge questions will be available on the Web site cited before the meeting. The AQMS will provide advice on emissions and air quality modeling as described in the Analytical Plan text dated May 12, 2003 and currently posted on the Web site cited immediately above.

Topics for Upcoming Meetings

At its public teleconference on July 11, 2003 the AQMS will discuss advice it developed on the Agency's plans to estimate emissions, a topic discussed by the AQMS at a meeting on June 12, 2003, previously announced in the **Federal Register** on June 5, 2003 (68 FR 33692).

At its public teleconference on July 11, 2003, the Special Council Panel will discuss the goals of the second prospective study and the scenarios described therein.

At the public teleconference on July 15, 2003, the Special Council Panel will discuss the Agency's plans for estimating direct costs described in the Analytical Plan and receive a report from the AQMS on emissions.

Agendas for the public teleconferences will be made available on the SAB Web site 10 days prior to the meeting.

Procedures for Providing Public Comment

It is the policy of the EPA Science Advisory Board (SAB) to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For conference call meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Interested parties should contact the Designated Federal Official (DFO) at least one week prior to the meeting in order to be placed on the public speaker list for the meeting. Speakers may attend the meeting and provide comment up to the meeting time. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the participants and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted below in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution. Should comment be provided at the meeting and not in advance of the meeting, they should be in-hand to the DFO up to and immediately following the meeting.

Meeting Accommodations

Individuals requiring special accommodation to access these meetings, should contact the DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 26, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 03–16576 Filed 6–26–03; 2:11 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7520–6]

Environmental Laboratory Advisory Board (ELAB) Meeting Dates, and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice of Teleconference Meeting.

SUMMARY: The Environmental Protection Agency's Environmental Laboratory Advisory Board (ELAB) will have teleconference meetings on July 16, 2003, at 1 P.M. ET; August 20, 2003 at 1 P.M. ET; September 17, 2003 at 1 P.M. ET; October 15, 2003, at 1 P.M. ET; November 19, 2003, at 1 P.M. ET; and December 17, 2003, at 1 P.M. ET to discuss the ideas and views presented at the previous ELAB meetings, as well as new business. Items to be discussed by ELAB over these coming meetings include: (1) Non-participating laboratories; (2) Consensus Standards White Paper; (3) ECOS Letter; (4) Homeland security discussion in general; (5) method detection limit related issues; (6) NELAC membership issue and benefits; and (7) follow-up on some of ELAB's past recommendations and issues. Written comments on NELAP laboratory accreditation and the NELAC standards are encouraged and should be sent to Ms. Lara P. Autry, DFO, U.S. EPA (E243–05), 4930 Old Page Road, Research Triangle Park, NC 27709, faxed to (919) 541–4261, or e-mailed to *autry.lara@epa.gov.* Members of the public are invited to listen to the teleconference calls, and time permitting, will be allowed to comment on issues discussed during this and previous ELAB meetings. Those persons interested in attending should call Lara P. Autry at (919) 541–5544 to obtain teleconference information. The number of lines for the teleconferences, however, are limited and will be distributed on a first come, first serve basis. Preference will be given to a group wishing to attend over a request from an individual.

Dated: June 12, 2003.

Lionel Dorsey Worthy, Jr.,

Chief, Landscape Characterization Branch, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 03–16586 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7520–4]

Meeting of the National Drinking Water Advisory Council (NDWAC)

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given of the forthcoming conference call meeting of the National Drinking Water Advisory Council (Council), established under the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*). The Council will discuss follow-up actions relating to a report presented at the May 2003 meeting by NDWAC's work group on Affordability. The Council will determine whether it will make specific recommendations to EPA relating to the Affordability report. This is a follow-up conference call to the conference call held on June 20, 2003.

DATES: The Council meeting will be held on July 10, 2003, from 10 a.m. to 12 p.m., Eastern Standard Time.

ADDRESSES: Council members teleconference into Room 2123 of the EPA East Building, which is physically located at 1201 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Members of the public that would like to attend the meeting, present an oral statement, submit a written statement in advance, or make arrangements to teleconference call into the meeting should contact Brenda Johnson, Designated Federal Officer, National Drinking Water Advisory Council, by July 3, 2003. Ms. Johnson can be reached at (202) 564–3791, by e-mail at *johnson.brendap@epa.gov*, or by regular mail at U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (M/C 4601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The Council encourages the public's input and will allocate 30 minutes for this purpose. A limited number of additional phone lines may be available for members of the public that are outside of the Washington, DC, metropolitan commuting area and are unable to attend in person. Any additional teleconferencing lines that are available will be reserved on a first-come, first-serve basis by the Designated Federal Officer. To ensure adequate time for public involvement, oral statements will be limited to five minutes, and it is preferred that only one person present the statement on behalf of a group or organization. Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information. Any person needing special accommodations at this meeting, including wheelchair access, should contact the Designated Federal Officer, at the number or e-mail listed under the **FOR FURTHER INFORMATION CONTACT** section, at least five business days before the meeting so that the appropriate arrangements can be made.

Nanci Gelb,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 03–16588 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2003–0032; FRL–7520–2]

A Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of the final *A Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information* (EPA 100/B–03/001; herein after referred to as the ''Assessment Factors Document'').

DATES: EPA is making the document available July 1, 2003.

ADDRESSES: The ''Assessment Factors Document'' is available at the EPA web site at the following web pages: *http://www.epa.gov/oei/qualityguidelines/af_home.htm, http://www.epa.gov/osp/spc/2polprog.htm.*

FOR FURTHER INFORMATION CONTACT: Greg Schweer, Office of Pollution Prevention and Toxics (7405M), telephone number: (202) 564–8469; fax number: (202) 564–4765 or Halûk Özkaynak, Office of Research and Development (8601–D), telephone number (202) 564–1531, fax number (202) 564–0061, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; e-mail address: *assessment.factors@epa.gov.*

SUPPLEMENTARY INFORMATION:

What is the EPA ''Assessment Factors Document''?

The ''Assessment Factors Document'' was prepared under the auspices of the EPA Science Policy Council (SPC) to describe the assessment factors and considerations generally used by the Agency to evaluate the quality and relevance of scientific and technical information. These general assessment factors are founded in the Agency guidelines, practices and procedures that make up the EPA information and quality systems, including existing program-specific quality assurance policies. As such, the general assessment factors do not constitute new quality-related considerations, nor does this document describe a new process for evaluating information. The ''Assessment Factors Document'' is intended to raise the awareness of the information-generating public about EPA's ongoing interest in ensuring and enhancing the quality of information available for Agency use. Further, the ''Assessment Factors Document'' complements the *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (EPA/260/R–02–008). The Information Quality Guidelines are also available via internet at: *http://www.epa.gov/oei/qualityguidelines.*

Consistent with the Agency's approach to the development of the EPA Information Quality Guidelines, this document is the product of an open, collaborative process between EPA and the public. During the development of this document, EPA requested public input in a variety of ways. EPA distributed a draft document for public comment in September 2002 and hosted a public meeting in Washington, DC. In January 2003, EPA commissioned the National Academy of Sciences to host a workshop to discuss key aspects of this document from a scientific and technical perspective. EPA revised this document based on the input received through these public outreach opportunities.

How Can I Get Copies of the ''Assessment Factors Document''?

You may access the EPA ''Assessment Factors Document'' and other information related to this notice electronically at the following web pages: *http://www.epa.gov/oei/qualityguidelines/af_home.htm* and

http://www.epa.gov/osp/spc/2polprog.htm.

To obtain a written copy of the ''Assessment Factors Document'', you may contact either of the individuals listed under **FOR FURTHER INFORMATION CONTACT.**

Elaine Stanley,

Director, Office of Information Analysis and Access, Office of Environmental Information.

[FR Doc. 03–16328 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7520–7]

Final National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final issuance.

SUMMARY: EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 today are issuing EPA's final NPDES general permit for discharges from large and small construction activities. Hereinafter, the terms ''permit'' or ''construction general permit'' or ''CGP'' will replace ''permits.'' Today's permit will replace the existing permit covering large construction sites in EPA Regions 1, 2, 3, 7, 8, 9 and 10 that expired on February 17, 2003 and the permit covering large construction sites in EPA Region 6 that expires July 6, 2003. Today's permit covers large construction sites in EPA Region 5. In addition, today's permit incorporates coverage of small construction activity in EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10. State Coastal Zone Management Act (CZMA) certification was not received from Massachusetts in time for that state to be included in this permit. As such, large construction activities in Massachusetts covered under the 1998 permit will continue to be covered under that permit. Today's permit is similar to the 1998 permits and will authorize the discharge of pollutants in storm water runoff associated with construction activities in accordance with the terms and conditions described therein.

DATES: The effective date of this permit is July 1, 2003. The permit will expire five years from the effective date.

ADDRESSES: The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center in the basement of the EPA West Building, Room B–102, at 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information on the final permit, the permit's Notice of Intent (NOI) or Notice of Termination (NOT) requirements, visit EPA's website at *http://www.epa.gov/npdes/stormwater/cgp*, contact the appropriate EPA Regional Office listed in I.B., or contact Jack Faulk, Office of Wastewater Management, Office of Water, EPA Headquarters at tel.: (202) 564–0768 or email at *faulk.jack@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *Permit.* Copies of the permit, permit fact sheet, and the Response to Comments document may be downloaded from EPA's website at *http://www.epa.gov/npdes/stormwater/cgp*.

2. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2002–0055. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

B. Who Are the EPA Regional Contacts for This Permit?

For EPA Region 1, contact Thelma Murphy at tel.: (617) 918–1615 or e-mail at *murphy.thelma@epa.gov*.

For EPA Region 2, contact Karen O'Brien at tel.: (212) 637–3717 or e-mail at *obrien.karen@epa.gov* or for Puerto Rico, Sergio Bosques at tel.: (787) 977–5838 or e-mail at *bosques.sergio@epa.gov*.

For EPA Region 3, contact William Toffel at tel.: (215) 814–5706 or *toffel.william@epa.gov*.

For EPA Region 5, contact Brian Bell at tel.: (312) 886–0981 or e-mail at *bell.brianc@epa.gov*.

For EPA Region 6, contact Brent Larsen at tel.: (214) 665–7523 or e-mail at *larsen.brent@epa.gov*.

For EPA Region 7, contact Mark Matthews at tel.: (913) 551–7635 or e-mail at *matthews.mark@epa.gov*.

For EPA Region 8, contact Greg Davis at tel.: (303) 312–6082 or e-mail at *davis.gregory@epa.gov*.

For EPA Region 9, contact Eugene Bromley at tel.: (415) 972–3510 or e-mail at *bromley.eugene@epa.gov*.

For EPA Region 10, contact Misha Vakoc at tel.: (206) 553–6650 or e-mail at *vakoc.misha@epa.gov*.

II. Background

A. Statutory and Regulatory History

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA), which directed EPA to develop a phased approach to regulate storm water discharges under the NPDES program. EPA published a final regulation on the first phase of this program on November 16, 1990, establishing permit application requirements for ''storm water discharges associated with industrial activity.'' EPA defined the term ''storm water discharge associated with industrial activity'' in a comprehensive manner to cover a wide variety of facilities. Construction activities that disturb at least five acres of land and have point source discharges to waters of the U.S. were included in the definition of ''industrial activity'' pursuant to 40 CFR 122.26(b)(14)(x). Phase II of the storm water program was published in the **Federal Register** on December 8, 1999. Phase II includes sites disturbing equal to or greater than one acre and less than five acres as well as sites less than one acre of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small

construction activity is defined per 40 CFR 122.26(b)(15)(i).

In developing the Phase II storm water regulations, EPA conducted an analysis of the potential impacts of the regulation on the National economy and also analyzed impacts on small businesses. These impacts focused on implementation of sediment and erosion control practices or best management practices to reduce pollutants commonly associated with construction storm water discharges. In performing these analyses, EPA considered affected industrial sectors, including the oil and gas industry. Initially, EPA determined that few, if any oil and gas exploration sites would be affected by Phase II and impacts on the accuracy of Phase II rule cost estimates were unlikely to be significant. Therefore, EPA did not include oil and gas exploration sites in the Final Draft of the Economic Analysis of the Phase II Final Rule. Since rule promulgation, EPA has become aware that close to 30,000 oil and gas sites may be affected by the Phase II storm water regulations.

On March 10, 2003 (68 FR 11325), EPA postponed the permit requirement for small oil and gas small construction activity from March 10, 2003, to March 10, 2005. During the two-year postponement, EPA plans to work with states, industry, and other entities to gather and evaluate data on the development and use of appropriate best management practices for the oil and gas industry.

B. Summary of Significant Changes From 1998 Construction General Permit

This permit replaces the previous Construction General Permits which were issued for a five-year term by various EPA Regions in February 1998 (63 FR 7858) and July 1998 (63 FR 36490). The organization and numbering of today's CGP has been revised slightly from the 1998 CGP to more clearly present permittee responsibilities. In addition, following is a list of significant changes included in the CGP as compared to the February 1998 CGP. These changes are discussed in more detail in the CGP fact sheet.

1. Change in Permit Areas Covered.

i. Additions.

a. Indian Country within the States of Michigan, Wisconsin, and Minnesota, Louisiana, Oklahoma, New Mexico, and Texas,

b. State of New Mexico,

c. Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC Codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, and 09), and

d. Discharges in the State of Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly TNRCC), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.

ii. Deletions.

a. State of Maine,

b. Indian Country, including disputed areas, within the State of Maine, and

c. State of Arizona.

2. Permit coverage modified to include small construction activities (those disturbing one to five acres), and to provide waivers for small construction for low rainfall erosivity, total maximum daily loads (TMDLs), and equivalent analyses.

3. Uncontaminated excavation dewatering added as an allowable non-storm water discharge.

4. Restrictions and documentation requirements added for discharges to waters with TMDLs, and procedures included for addressing attainment of water quality standards.

5. State and county Endangered Species Act (ESA) appendix of Federally-listed or proposed species removed.

6. Discharge authorization procedures and NOI submission deadlines altered to accommodate new seven-day ESA reviews of NOIs by U.S. Fish & Wildlife Service and National Marine Fisheries Service, and to account for ongoing projects.

7. Information required on NOI form modified to require:

i. Applicable permit number;

ii. Internal Revenue Service Employer Identification Number;

iii. Methodology for determining latitude and longitude;

iv. Name of Indian reservation or affiliated Tribe;

v. Address of SWPPP location (changed from optional to required);

vi. Whether the discharge is consistent with the assumptions and requirements of applicable EPA approved or established TMDLs; and

vii. The specific permit tracking number of an operator certifying under criterion F.

8. Language added to support the operator's ability to submit NOIs and NOTs using EPA's electronic NOI system when available.

9. Procedure clarified for operator to delineate on the SWPPP areas of the project where no further requirements apply following earth-disturbing activities and stabilization.

10. Requirement to provide an estimate of the site's runoff coefficient for pre- and post-construction conditions removed.

11. Documentation requirements for ESA eligibility clarified.

12. Inspection provisions modified to include option for weekly site inspections rather than biweekly inspections with follow-up inspections after each rain event, and guidelines included for utility line installation, pipeline construction, and other linear construction activities.

13. Further clarification provided concerning stabilization requirements for project areas where construction has temporarily ceased.

14. Additional guidance and options provided for adjusting SWPPP to address applicable water quality standards after authorization.

15. Clarification added that coverage under an alternative NPDES permit qualifies as a basis for submitting an NOT.

16. Definitions added for the following terms:

i. ''Arid Areas'';

ii. ''Eligible'';

iii. ''Federal Facility'';

iv. ''Indian Country'';

v. ''Large Construction Activity'';

vi. ''New Project'';

vii. ''Ongoing Project'';

viii. ''Permitting Authority'';

ix. ''Project Area'';

x. ''Receiving Water'';

xi. ''Semi-Arid Areas'';

xii. ''Site'';

xiii. ''Small Construction Activity'';

xiv. ''Storm Water Discharge-Related Activity'';

xv. ''Total Maximum Daily Load'' or ''TMDL''; and

xvi. ''Wetland''.

17. Standard conditions revised consistent with 40 CFR 122.41.

C. Summary of Terms and Conditions of Final General Permit

1. Discharges Covered

Operators of large and small construction activities within the areas listed below may be eligible to obtain coverage under this permit for allowable storm water and non-storm water discharges:

Region 1: The State of New Hampshire; Indian Country in the States of Rhode Island and Connecticut; and Federal facilities in Vermont. (State Coastal Zone Management Act (CZMA) certification was not received from Massachusetts in time for that state to be

included in this permit. As such, large construction activities in Massachusetts covered under the 1998 CGP will continue to be covered under that permit. EPA will reissue the CGP for Massachusetts for large and small construction activities at a later date, and will include any state-specific modifications or additions as part of the State's CZMA certification process.)

Region 2: The Commonwealth of Puerto Rico and Indian Country in the State of New York.

Region 3: District of Columbia; and Federal facilities in the State of Delaware.

Region 5: Indian Country in the States of Michigan, Minnesota, and Wisconsin, except the Sokaogon Chippewa (Mole Lake) Community.

Region 6: The State of New Mexico; Indian Country in the States of Louisiana, Oklahoma, Texas, and New Mexico (except Navajo Reservation Lands (*see* Region 9) and Ute Mountain Reservation Lands (*see* Region 8)); discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09); and discharges in the State of Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly the Texas Natural Resource Conservation Commission), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.

Region 7: Indian Country in the States of Iowa, Kansas, and Nebraska (except Pine Ridge Reservation Lands (*see* Region 8)).

Region 8: Federal facilities in Colorado; Indian Country in Colorado (as well as the portion of the Ute Mountain Reservation located in New Mexico), Montana, North Dakota (as well as that portion of the Standing Rock Reservation located in South Dakota and excluding the portion of the lands within the former boundaries of the Lake Traverse Reservation, which is covered under the permit for areas of South Dakota), South Dakota (as well as the portion of the Pine Ridge Reservation located in Nebraska and the portion of the lands within the former boundaries of the Lake Traverse Reservation located in North Dakota and excluding the Standing Rock Reservation which is covered under the permit for areas of North Dakota), Utah (except Goshute and Navajo Reservation lands (*see* Region 9)), and Wyoming.

Region 9: The Islands of American Samoa and Guam, Johnston Atoll, Midway/Wake Islands and Commonwealth of the Northern Mariana Islands; Indian Country in Arizona (as well as Navajo Reservation lands in New Mexico and Utah), California, and Nevada (as well as the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon, and the Goshute Reservation in Utah).

Region 10: The States of Alaska and Idaho; Indian Country in Alaska, Idaho (except Duck Valley Reservation (*see* Region 9)), Washington, and Oregon (except for Fort McDermitt Reservation (*see* Region 9)); and Federal facilities in Washington.

2. Limitations on Coverage

The final general permit includes a number of eligibility restrictions including: post-construction discharges; discharges which may adversely affect endangered or threatened species and critical habitat; discharges which may cause or contribute to excursions above any applicable water quality standards; and discharges that are inconsistent with applicable approved TMDLs. Construction operators that do not meet the eligibility requirements of the general permit will be required to submit an individual permit application or seek coverage under any alternate general permit, if available. Eligibility restrictions for discharges that adversely affect historic properties have been reserved pending ongoing discussions with the Advisory Council on Historic Preservation, State Historic Preservation Officers, and Tribal Historic Preservation Officers. EPA may modify the permit at a later date based on those discussions.

3. Deadlines and Permit Application Process

To obtain discharge authorization under the final general permit, dischargers are required to submit an NOI requesting discharge authorization. The NOI must include basic information about the construction project (*e.g.*, operator name, site name, and site address) and certification that a storm water pollution prevention plan (SWPPP) has been prepared for the site describing the best management practices that the discharger will implement to control pollutants in the discharges in accordance with the requirements of the CWA. NOI due dates are as follows:

i. New Projects: The NOI must be submitted at least seven days prior to commencement of construction activities.

ii. Permitted Ongoing Projects: If the operator previously received authorization to discharge for an ongoing project under the 1998 CGP, the NOI must be submitted within 90 days of the effective date of this permit, unless the permittee is eligible to submit a Notice of Termination (NOT) before the 90th day, provided that the NOT is submitted in compliance with the permit requirements. Until authorized under this permit, the operator must comply with the terms and conditions of the 1998 CGP.

iii. Unpermitted Ongoing Projects: Due to the lack of availability of this permit by the March 10, 2003 deadline for small construction activities to apply for permit coverage and by the February 17, 2003 expiration of the 1998 CGP for large construction activities, EPA anticipates that a number of otherwise regulated construction projects were left without the ability to obtain coverage under a valid general permit. EPA's Office of Enforcement and Compliance Assurance issued a memorandum on March 7, 2003 making administrative or civil enforcement for these activities a low priority because a new CGP had not been promulgated, on the condition that affected operators implement an interim SWPPP and associated best management practices until the new permit is available. For this class of operators, which did not previously receive authorization to discharge for an ongoing project under the 1998 CGP, the NOI must be submitted within 90 days of the effective date of this permit, unless the permittee is eligible to submit a Notice of Termination (NOT) before the 90th day. Until authorized under this permit, the operator must comply with an interim SWPPP consistent with the 1998 CGP.

4. Storm Water Pollution Prevention Plans

The final general permit requires that all operators covered by the permit develop and implement a SWPPP. The SWPPP is the principal means through which dischargers comply with the CWA's requirement to control pollutants in their discharges. All SWPPPs are required to be developed in accordance with sound engineering practices and developed specific to the site. These SWPPPs are required to be prepared prior to commencement of construction activities and then updated as appropriate. Specific elements to be addressed in the SWPPP include:

i. Pollution Prevention Plan Contents: Site and Activity Description,
ii. Pollution Prevention Plan Contents: Controls to Reduce Pollutants,
iii. Non Storm Water Discharge Management,
iv. Maintenance of Controls,
v. Documentation of Permit Eligibility Related to Endangered Species,
vi. Copy of Permit Requirements,
vii. Applicable State, Tribal, or Local Programs,
viii. Inspections,
ix. Maintaining an Updated Plan,
x. Signature, Plan Review and Making Plans Available,
xi. Management Practices, and
xii. Documentation of Permit Eligibility Related to Total Maximum Daily Loads.

5. Permit Appeal Procedures

Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with Section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any conditions of the individual permit (40 CFR 124.19 as modified on May 15, 2000, 65 FR 30886).

III. Executive Order 12866

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

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rule-making requirements under the Administrative Procedures 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.

Issuance of an NPDES general permit is not subject to rulemaking requirements, under APA section 553 or any other law, and is thus not subject to the RFA requirements. The APA defines two broad, mutually exclusive categories of agency action—''rules'' and ''orders.'' Its definition of ''rule'' encompasses ''an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency * * *'' APA section 551(4). Its definition of ''order'' is residual: ''a final disposition * * * of an agency in a matter other than rule making but including licensing.'' APA section 551(6) (emphasis added). The APA defines ''license'' to ''include * * * an agency permit * * *'' APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes ''rule making'' requirements. The APA defines ''rule making'' as ''the agency process for formulating, amending, or repealing a rule.'' APA section 551(5). By its terms, then, section 553 applies only to ''rules'' and not also to ''orders,'' which include permits.

V. 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. UMRA uses the term ''regulatory actions'' to refer to regulations. (*See, e.g.*, UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of (the Administrative Procedure Act (APA)), or any other law. * * *'' As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

VI. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the final construction general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the construction general permit for large construction activities have already been approved by the Office of Management and Budget (OMB) (OMB Control No. 2040–0188) in previous submissions made for the NPDES permit program under the provisions of the Clean Water Act. Information collection requirements of the construction general permit for small construction activities were submitted to OMB (OMB Control No. 2040–0211) for review and approval and will be published in a separate **Federal Register** Notice.

1. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 24, 2003.

Linda M. Murphy,
Director, Office of Ecosystem Protection, Region 1.

2. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 23, 2003.

Kevin Bricke,
Acting Director, Division of Environmental Planning and Protection, Region 2.

3. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 20, 2003.

Carlos E. O'Neill,
Acting Division Director, Caribbean Environmental Protection Division, Region 2.

4. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 23, 2003.

Jon M. Capacasa,

Director, Water Protection Division, Region 3.

5. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 23, 2003.

Rebecca L. Harrvey,
Chief, NPDES Programs Branch, Region 5.

6. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 20, 2003.

Miguel I. Flores,
Director, Water Quality Protection Division, Region 6.

7. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 23, 2003.

Leo J. Alderman,
Director, Water, Wetlands, and Pesticides Division, Region 7.

8. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 23, 2003.

Stephen S. Tuber,
Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, Region 8.

9. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 20, 2003.

Nancy Woo,
Acting Director, Water Division, Region 9.

10. **Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 23, 2003.

Randall F. Smith,
Director, Office of Water, Region 10.

[FR Doc. 03–16575 Filed 6–26–03; 2:11 pm]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Sunshine Act Meeting

ACTION: Notice of a partially open meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Thursday, July 3, 2003 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEM: Transportation Security Export Program.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FOR FURTHER INFORMATION CONTACT: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Telephone No. 202–565–3957).

Peter B. Saba,
General Counsel.

[FR Doc. 03–16729 Filed 6–27–03; 2:04 pm]

BILLING CODE 6690–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 25, 2003.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Pebblespring Holding Company, Berwyn, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Eagle National Bank, Upper Darby, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. The Desjardins Group, Montreal, Quebec, Canada; Desjardins FSB Holdings, Inc., Wilmington, Delaware; La Caisse centrale Desjardins de Quebec, Montreal, Canada; Federation de caisses Desjardins du Quebec, Levis, Quebec, Canada; to become bank holding companies by acquiring 100 percent of the voting shares of Desjardins Bank, N.A., Hallandale, Florida, upon is conversion from a federal savings bank, Desjardins Federal Savings Bank, Hallandale, Florida.

C. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Allied Equity Holding Corporation, Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Western Dakota Holding Company, Timber Lake, South Dakota, and thereby indirectly acquire Western Dakota Bank, Timber Lake, South Dakota.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Industry Bancshares, Inc., Industry, Texas; to acquire 100 percent of the voting shares of Fayetteville Bancshares, Inc., Fayetteville, Texas, and thereby indirectly acquire voting shares of Fayetteville Bank, Fayetteville, Texas.

Board of Governors of the Federal Reserve System, June 25, 2003.

Robert deV. Frierson,
Deputy Secretary of the Board.

[FR Doc. 03–16526 Filed 6–30–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all

bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 15, 2003.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. KeyCorp, Cleveland, Ohio; to expand to not more than 15 percent of its total consolidated capital stock and surplus its investments in community development activities, pursuant to section 225.28(b)(12)(i) of Regulation Y.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. The Mitsubishi Trust and Banking Corporation, Tokyo, Japan, and Mitsubishi Tokyo Financial Group, Inc., Tokyo, Japan; to acquire Spectrum Capital Ltd., Greenwich, Connecticut, and thereby engage in making, acquiring, and servicing loans, leasing of personal property, or acting as agent, broker or advisor in the leasing of such property, pursuant to sections 225.28(b)(1) and (b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, June 25, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.03–16525 Filed 6–30–03; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Revised System of Records

AGENCY: General Services Administration.

ACTION: Final notice of a revision to a Privacy Act system of records.

SUMMARY: The General Services Administration (GSA) is publishing a final notice of a revision to the government-wide system of records, Contracted Travel Services Program (GSA/GOVT–4). This final notice incorporates changes based on a comment in response to a notice originally published for public comment on May 2, 2003, proposing to revise the system to include a contracted government-wide electronic travel service (eTS) that would require a new category of travel service provider for maintaining information in a comprehensive travel services system for travelers on official Federal business, from initial travel authorization to the final accounting. The one comment received by GSA expressed concern that the ''categories of individuals covered by the system'' category included others besides the individuals who travel at government expense and that this would allow retrievability of records by the names of third parties. This final notice addresses that concern by limiting the categories of individuals covered by the system to individuals on official travel for the Federal government.

FOR FURTHER INFORMATION CONTACT: GSA Privacy Act Officer, General Services Administration, Office of the Chief People Officer, 1800 F Street NW., Washington DC 20405; telephone (202) 501–1452.

Dated: June 25, 2003.

Daniel K. Cooper,

Director, Information Management Division.

GSA/GOVT–4

SYSTEM NAME:

Contracted Travel Services Program.

SYSTEM LOCATION:

System records are located at the service providers under contract with a Federal agency and at the Federal agencies using the contracts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are Federal employees authorized to perform official travel, and individuals being provided travel by the Federal government.

CATEGORIES OF RECORDS IN THE SYSTEM:

System records include a traveler's profile containing: name of individual; Social Security Number; employee identification number; home and office telephones; home address; home and office e-mail addresses; emergency contact name and telephone number; agency name, address, and telephone number; air travel preference; rental car identification number and car preference; hotel preference; current passport and/or visa number(s); credit card numbers and related information; bank account information needed for electronic funds transfer; frequent traveler account information (*e.g.*, frequent flyer account numbers); trip information (*e.g.*, destinations, reservation information); travel authorization information; travel claim information; monthly reports from travel agent(s) showing charges to individuals, balances, and other types of account analyses; and other official travel related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511, 3512, and 3523; 5 U.S.C. Chapter 57; and implementing Federal Travel Regulations (41 CFR parts 301–304).

PURPOSE:

To establish a comprehensive beginning-to-end travel services system containing information to enable travel service providers under contract to the Federal government to authorize, issue, and account for travel and travel reimbursements provided to individuals on official Federal government business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed as a routine use as follows:

a. To a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where agencies become aware of a violation or potential violation of civil or criminal law or regulation.

b. To another Federal agency or a court when the Federal government is party to a judicial proceeding.

c. To a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made at the request of the individual who is the subject of the record.

d. To a Federal agency employee, expert, consultant, or contractor in performing a Federal duty for purposes of authorizing, arranging, and/or claiming reimbursement for official travel, including, but not limited to, traveler profile information.

e. To a credit card company for billing purposes, including collection of past due amounts.

f. To a Federal agency for accumulating reporting data and monitoring the system.

g. To a Federal agency by the contractor in the form of itemized statements or invoices, and reports of all transactions, including refunds and adjustments to enable audits of charges to the Federal government.

h. To a Federal agency, in response to its request, in connection with the hiring or retention of any employee to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

i. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by

an employee to whom the information pertains.

j. To the Office of Personnel Management (OPM) in accordance with the agency's responsibility for evaluation of Federal personnel management.

k. To officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

l. To a travel services provider for billing and refund purposes.

m. To a carrier or an insurer for settlement of an employee claim for loss of or damage to personal property incident to service under 31 U.S.C. § 3721, or to a party involved in a tort claim against the Federal government resulting from an accident involving a traveler.

n. To a credit reporting agency or credit bureau, as allowed and authorized by law, for the purpose of adding to a credit history file when it has been determined that an individual's account with a creditor with input to the system is delinquent.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, REVIEWING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file cabinets. Electronic records are maintained within a computer (*e.g.*, PC, server, etc.) and attached equipment.

RETRIEVABILITY:

Paper records are filed by a traveler's name and/or Social Security Number/ employee identification number at each location. Electronic records are retrievable by any attribute of the system.

SAFEGUARDS:

Paper records are stored in lockable file cabinets or secured rooms. Electronic records are protected by a password system and a secure socket layer encrypted Internet connection. Information is released only to authorized users and officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Records kept by a Federal agency are maintained in accordance with the General Records Retention Schedules issued by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Transportation and Property Management (FB), Federal Supply Service, General Services Administration, Crystal Mall Building 4, 1941 Jefferson Davis Highway, Arlington VA 22202.

NOTIFICATION PROCEDURE:

Inquiries from individuals should be addressed to the appropriate administrative office for the agency that is authorizing and/or reimbursing their travel.

RECORDS ACCESS PROCEDURES:

Requests from individuals should be addressed to the appropriate administrative office for the agency that is authorizing and/or reimbursing their travel. Individuals must furnish their full name and/or Social Security Number to the authorizing agency for their records to be located and identified.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate administrative office for the agency that authorized and/or reimbursed their travel. Individuals must furnish their full name and/or Social Security Number along with the name of the authorizing agency, including duty station where they were employed at the time travel was performed.

RECORD SOURCE CATEGORIES:

The sources are the individuals themselves, employees, travel authorizations, credit card companies, and travel service providers.

[FR Doc. 03–16566 Filed 6–30–03; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03090]

Technology Translation and Transfer of Effective HIV Prevention Behavioral Interventions; Notice of Availability of Funds

Application Deadline: July 31, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301 and 317(k) of the Public Health Service Act, (42 U.S.C. section 241 and 247b(k)), as amended. The Catalog of Federal Domestic Assistance number is 93.941.

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 Technology Translation and Transfer of Effective HIV Prevention Behavioral Interventions. This program addresses the ''Healthy People 2010'' focus area of HIV.

The purpose of the program is to: (1) Support translation of the protocols for effective HIV prevention interventions, in which the original research was conducted with methodological rigor and which have not been packaged or widely adopted, into a package of materials that state, local, and non-profit prevention providers can use to implement the interventions in their non-research field situations; and (2) Support development of curricula for training provider agency staff who will implement the intervention on how to deliver the packaged intervention with fidelity and on technical skills needed to conduct the intervention, and technical assistance guidance manuals for providing technical assistance to future adopters of the intervention.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for HIV, STD, and TB Prevention (NCHSTP): Strengthen the capacity nationwide to monitor the epidemic, develop and implement effective HIV prevention interventions and evaluate prevention programs and to also decrease the number of persons at high risk for acquiring or transmitting HIV infection.

C. Eligible Applicants

Applications may be submitted by non-profits organizations and by governments and their agencies in the United States; that is: public nonprofit organizations; private nonprofit organizations; for profit organizations; universities; colleges; research institutions; hospitals; community-based organizations; state and local governments or their bona fide agents (this includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Marianna Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); political subdivisions of States (in consultation with States); small, minority, women owned businesses; technical schools; faith-based organizations; and federally recognized Indian tribal governments. If any of the aforementioned organizations,

institutions, universities, research hospitals, *etc.,* do not have the following qualifications they will not be eligible to apply for this program: (1) Researchers who have developed proven HIV behavioral prevention interventions; (2) persons with experience using protocols to conduct HIV behavioral interventions; or (3) persons with expertise in curricula and package development. If agencies are interested in applying for funding under this announcement but are not of a group listed as eligible, they are encouraged to partner with an eligible entity, combine their capacities, and submit a joint application. The eligible partner must be the lead applicant and must conduct at least 50 percent of the program's activities.

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 $470,000 is available in FY 2003 to fund approximately two awards. It is expected that the average award will be $215,000, ranging from $200,000 to $235,000. It is expected that the awards 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 two 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. Continued funding for year two will be dependent on the completion of required activities for year one.

Use of Funds

Collection of new or supplemental intervention research outcomes data, data entry and analysis, other than for process evaluation of this project, purchase of furniture or computers, and rental of facilities will not be funded under this program.

Recipient Financial Participation

Matching funds are not required for this program.

Funding Priority

CDC's intention is to support the packaging of interventions for target populations not currently represented in the Replicating Effective Programs collection of packages. This announcement is only for proposals that submit an HIV prevention intervention with demonstrated effectiveness in changing HIV/STD-related risk behavior or health outcomes. Consideration will be given to obtaining diversity of at-risk populations among the proposals selected for funding. Interventions are sought for any population at risk of acquiring or transmitting HIV; however, the following populations are of particular interest: (1) Persons with HIV infection; (2) African American men having sex with men (MSM); (3) Hispanic MSM; (4) incarcerated persons; (5) sex workers, (6) transgender persons; and (7) persons living in rural areas whose behaviors put them at risk for HIV infection.

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

The program requirements for the first year of activity include:

a. Develop the intervention package, including promotional or marketing material for program administrators, and preliminary versions of the training curricula in collaboration with HIV prevention providers and consumers.

b. Produce enough intervention packages so that each case study agency can receive one for each staff member delivering the intervention, the researcher's team has at least one package; and the CDC Project Officer has one package. The number of packages will depend upon the structure of the intervention, how many case study agencies test the package, and how many facilitators there are at each agency.

c. Identify at least two HIV prevention agencies, which are not collaborating on package development, for case study of the technology transfer process.

d. Develop a plan to evaluate the implementation process.

Program requirements for the second year of activity include:

a. Initiate the prevention agency case study using the intervention package, training curricula, quality assurance, and technical assistance.

b. Complete the case study by achieving technology transfer with at least one of the selected agencies.

c. Initiate and complete the implementation process evaluation.

d. Revise intervention and training materials based upon the case study results.

e. Develop technical assistance guidance manuals based on transfer experience.

f. Publish and distribute results.

2. CDC Activities

a. Host a meeting with the successful applicants within 60 days of the notice of award to discuss implementation of the project. CDC will host two meetings per project year to facilitate the sharing of experiences and lessons learned by the recipients of this funding and the recipients of Replicating Effective Programs (REP) funding under other announcements.

b. Provide technical assistance in the general operation of this HIV prevention project, including but not limited to detailed advice on steps to accomplish the recipient activities, composition of community advisory boards, cost containment strategies for video production, package production issues (*e.g.*, reading level, format, layout), topics to include in Memoranda of Agreement with case study agencies, strategies for collecting process measures and tracking implementation costs, and responses to recipient questions and requests.

c. Consult on the choice of prevention agencies for the case studies with the intervention package by suggesting selection criteria, assisting in identifying potential agencies in the event that a recipient has difficulty, and approving the final choices.

d. Monitor and evaluate scientific and operational accomplishments of this project through frequent telephone contact and review of technical reports, package iterations, and interim data analyses. Project Officers will conduct monthly calls with individual recipients and monthly conference calls with all current recipients of REP funding, will read and edit iterations of the package and video scripts, and will make recommendations aimed at solving problems and improving the quality and timeliness of recipient activities.

e. Conduct at least one site visit per year to assess program progress and mutually solve problems, and additional visits as needed.

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 20 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of a one-page abstract of the proposal, a complete table of contents to the application and its appendices, and text addressing each required element. Beginning with the first page of text, number all pages clearly and sequentially, including each page in the appendices. Replace double-sided article reprints with a one-sided copy.

Include a general introduction, followed by one narrative subsection for each of the numbered content elements per application, in the order in which the elements appear below. Label each narrative subsection with the element title and include all of the information needed to evaluate that element of the application (except for curriculum vitae, references, line item budget justification, and letters of support, which are appropriate for the appendices). The application's narrative content elements are:

1. Capacity, and the Degree to Which the Applicant Has Met the CDC Policy Requirements Regarding the Inclusion of Women, Ethnic, and Racial Groups in the Proposed Research

a. Demonstrate capacity to conduct the activities required for this project.

b. Clearly describe the proposed staffing, *e.g.*, show percentages of each staff member's commitment to this and other projects, the division of duties and responsibilities for this project, brief position descriptions for existing and proposed personnel, and any partnerships with HIV prevention agencies.

c. Demonstrate that the applicant's staff has the expertise to complete this project, including ability to produce the intervention package, *e.g.*, include examples of previously developed fact sheets, CD-ROMs, web sites, or samples from other intervention packages.

d. Name the staff members who are key to the completion of the project. Provide a brief description of their strengths that relate to this project. Include their curriculum vitae in the appendix.

e. Describe access to graphics expertise for the editing and production of the intervention package in print and/or electronic formats.

f. Briefly describe compliance regarding the inclusion of women, ethnic, and racial groups in the proposed activities or justification when representation is limited or absent.

2. Effective Behavioral Intervention

a. Identify the principal investigator (PI); name and location of the institution(s) that originally developed, conducted, and evaluated the proposed intervention; and population(s) for whom the intervention was designed. Indicate whether the research was part of a multi-site project.

b. If the research was part of a multi-site project with a common protocol, provide letters of support from original developers of the intervention other than the applicant (*e.g.*, PIs at other sites) indicating their intent to collaborate on a portion of the intervention materials that will discuss generalizing the intervention to other target populations or settings.

c. Where the applicant is not an original developer of the intervention, provide written permission from the intervention's original developers to develop and market materials for the intervention package.

d. Describe the research's results on behavioral or health outcomes, including how these results are both statistically and practically significant; and, if the intervention is community-level, how long the intervention was in operation before positive effects were detected.

e. Include in the appendix a copy of any reports, which have been submitted to the institution funding the research, have been submitted for publication, or have been published in peer reviewed journals, describing the study design and positive behavioral or health outcomes of the intervention. This portion of the appendix should be labeled as ''Intervention Study Design and Results.''

f. Substantiate the need for an intervention package in terms of the target population's risk and the intervention's potential for being generalized to other populations at risk for HIV infection.

g. Describe the feasibility of implementation by HIV prevention agencies, particularly those with limited resources, and the number of at-risk persons an agency could potentially reach with the intervention annually.

3. Plan for Intervention Package Development

a. Describe the contents of the intervention package that will be developed. Include descriptions of: (1) The overall concept, format, and objectives to be in text and in short promotional or marketing materials for program administrators, *e.g.*, appropriateness for intended implementing agencies, description of the intervention and the science behind it, target populations for whom the intervention would be appropriate; (2) The intervention's pre-implementation phase, *e.g.*, intervention's core elements related to this phase, time line of necessary preparation steps, list of collaborators, training materials, material resources, facilities, staff (numbers, time commitment, and skills), and cost categories for conducting the intervention; (3) The intervention's implementation phase, *e.g.*, intervention's core elements related to this phase, protocols and examples for implementing the intervention and ensuring quality and consistency, identification of barriers to implementation and advice on how they may be overcome, and methods for process evaluation; and (4) The intervention's maintenance phase, *e.g.*, intervention's core elements related to this phase, how to deal with issues of staff turnover and retraining.

b. Explain how staff from HIV prevention programs (*e.g.*, health departments and community-based organizations) and/or other prevention providers and consumers in the applicant's geographic area will collaborate in the development of the intervention package. Describe the planned procedures for how these collaborators will be identified.

c. Present a time line for developing and reviewing the intervention package and its components.

4. Plan To Identify Prevention Agencies for Case Study of Implementing the Packaged Intervention in Year Two

a. Discuss a plan to identify and recruit potential implementers within your state or nearby (*i.e.*, where training, assistance, and evaluation will be feasible within budget constraints) and indicate any agencies that have already shown interest in or may be interested in implementing the proposed intervention.

b. Elaborate on the criteria and mechanism for selecting agencies that will participate in case studies of implementing the packaged intervention.

Note: Any agency that participated in the intervention's original research is excluded from consideration as a potential implementer, as is any agency that currently or previously implemented the intervention.

5. Methods To Assist Implementation

a. Describe the strategy to facilitate implementation of the packaged intervention, including development of training curricula, provision of training, and provision of direct technical assistance from the applicant to the

selected case study agencies. Describe plans for assisting selected users find additional funds, if it becomes necessary.

b. Discuss procedures to assist selected agencies to implement the packaged intervention, drawing upon the agencies' existing staff and resources, and to identify barriers to implementation and how to overcome them.

6. Evaluation of the Implementation Process

a. Describe methods and measures to be used in assessing: (1) Fidelity to the intervention's core elements during the implementation phases as specified in the intervention package; (2) quality of intervention delivery according to the methods described in the package; (3) quality of the applicant's technical assistance and its delivery; (4) impact of barriers to implementation on the case study (*e.g.*, accuracy of record keeping, agency's staff recruitment and training, client recruitment); (5) effectiveness of solutions to barriers; (6) costs of intervention delivery and cost containment strategies; and (7) maintenance of collaborative relationships. No behavioral or health outcomes are to be evaluated.

b. Describe plan to use the process evaluation results in finalizing the intervention package and the training curricula for agency staff and for the preparation of guidance manuals for future technical assistance providers.

Note: The purpose of the program includes achieving technology transfer with at least one HIV prevention agency and studying the process. Selection of two or more implementing agencies may increase the likelihood of achieving technology transfer (*i.e.*, entering implementation phase and conducting all intervention components) with at least one agency.

7. Budget

Provide a detailed, line-item budget for the project; justify each line item. Plan for two trips to Atlanta each year to meet with CDC representatives. Any application requesting greater than $235,000 (including indirect costs) will not be considered for review and will be returned to the applicant.

8. Performance Goals

Describe how the measurable outcomes of the program will be in alignment with one or more of the following performance goals:

a. Strengthen the capacity nationwide to monitor the epidemic, develop and implement effective HIV prevention interventions and evaluate prevention programs.

b. Decrease the number of persons at high risk for acquiring or transmitting HIV infection.

G. Submission and Deadline

Application Forms

Submit the signed original and two copies of PHS 5161–1 (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 31, 2003. Submit the application to: Technical Information Management-PA# 03090, 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. Demonstrated Capacity and the degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research (25 points) a. Demonstrated Capacity. Overall ability of the applicant to perform the proposed activities as reflected in their staff's and consultants' qualifications and availability. The extent to which the applicant demonstrates that proposed staff have experience with developing materials in various formats, training, and process evaluation and have demonstrated familiarity with HIV behavioral interventions, particularly the intervention to be packaged. The nature of any partnership between researchers and HIV prevention programs. Adequacy of existing support staff, equipment, and facilities.

b. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

2. Effective Behavioral Intervention (20 points). Clear demonstration of the effectiveness of the proposed intervention in a report that has been: (1) Submitted to the institution funding the research; (2) submitted for publication, or published in a peer-reviewed journal. This is an absolute criterion.

To be considered effective, the intervention must have: (1) Tested using a control or comparison group with participants assigned randomly or without bias to study conditions; (2) measured using pre- and post-

intervention outcomes; (3) retained at least 70 percent of the study participants; (4) completed the data collection and analyses; and (5) results that show significant positive findings (and no significant negative results) for changing HIV/STD-related risk behavior or health outcomes. If this evidence is present, also consider:

a. The original research for this intervention was conducted and completed with a population at demonstrable risk for acquiring or transmitting HIV, preferably persons with HIV infection, African American men having sex with men (MSM), Hispanic MSM, incarcerated persons, sex workers, transgender persons, or persons living in rural areas whose behaviors put them at risk for HIV infection.

b. The feasibility of implementing the proposed intervention by agencies with limited resources and the number of at-risk persons an agency could reach.

c. Letters of permission from the intervention's developer(s) to develop and market materials for the proposed intervention package and, if the intervention was from a multi-site project with a common protocol, letters of participation from the same developers.

3. Plan for Intervention Package Development (15 points). Level of detail in the outline of the proposed package, *e.g.*, for overview, pre-implementation, implementation, and maintenance phases. Clarity of described formats, concepts, intended implementers, and objectives. Justification of the appropriateness of the package's objectives, format and concepts to the intended implementing agencies' needs and capabilities. Adequacy of planned identification, of and input from, collaborating HIV prevention programs and/or other prevention providers and consumers. Adequacy of planned materials' review, pre-testing, and revision. Adequacy of time scheduled for completing the proposed steps of the package's development and contents.

4. Plan to Identify Prevention Agencies to Implement the Packaged Intervention (15 points). Recognition of which agencies are not eligible to participate in the implementation case study. Quality of plan to identify eligible potential agencies with at-risk populations for whom the intervention is appropriate and to interest them in implementing the package during year two of the project. Selection of active methods to identify and solicit potential implementing agencies. Adequacy of criteria and mechanism for selecting at least two implementing agencies likely to achieve technology transfer.

5. Methods to Assist Implementation (15 points). Clarity of the strategy to assist selected agencies in adopting and implementing the proposed intervention, *e.g.*, outline of training curricula and training plan. Understanding of barriers to implementation and how to overcome them. Plan to assist selected users in implementing the entire intervention using their existing resources and staff, *e.g.*, provision of proactive and on-call technical assistance. Plan to help selected agencies find additional funds for implementing the package in year two, if relevant.

6. Evaluation of Implementation Process (10 points). Feasibility and appropriateness of the applicant's plan to evaluate the selected agencies' implementation of the intervention as specified in the intervention package. Thorough and realistic selection of process measures to evaluate. Adequacy of plans for revising intervention package and training materials based upon the case study results. Adequacy of plans for developing a technical assistance manual based on the agencies' and applicant's implementation and transfer experiences.

7. Budget (Reviewed, but not scored). Extent to which the budget is reasonable, itemized, clearly justified, and consistent with the intended use of the funds. Extent to which the budget includes itemizations, justifications, scope, and deliverables for consultants or contractors.

8. Performance goals (Reviewed, but not scored). Extent to which the program's proposed measures will demonstrate effective accomplishment of the purposes and one or more performance goals of the cooperative agreement.

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an 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 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.

At the completion of two years of funding, recipients will be expected to share print, and possibly electronic, copies of the revised intervention packages with representatives of the agencies that implemented the intervention for the program's case studies, with CDC project officers, and with the intervention's developers, if different from the applicant.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement, as posted on the CDC web site.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

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: Vincent Falzone, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For program technical assistance, contact: Craig Studer, Deputy Branch Chief, Division of HIV/AIDS Prevention, National Center for HIV/STD/TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop E–37, Atlanta, GA 30333, Telephone: 404–639–5389, E-mail address: *ccs1@cdc.gov.*

Dated: June 25, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16530 Filed 6–30–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Prevention Research Centers Applications Review and Approval, Program Announcement #04003

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Prevention Research Centers Applications Review and Approval, Program Announcement #04003.

Times and Dates: 8:30 a.m.–9 a.m., July 22, 2003 (Open); 9:00 a.m.–5 p.m., July 22,2003 (Closed); 9:00 a.m.–12 p.m., July 23, 2003 (Closed).

Place: Sheraton Colony Square Hotel, 188 14th Street NE., Atlanta, GA, 30361 Telephone 404.892.6000.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Pub. L. 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #04003.

Contact Person for More Information: Michael Waller, Deputy Director, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, MS–K–45, Atlanta, GA, 30341, Telephone 404.498.3374.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 24, 2003.

John Burkhart,

Acting Director, Management Analysis and Services Office, , Centers for Disease Control and Prevention.

[FR Doc. 03–16529 Filed 6–30–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Controlling Asthma in American Cities Project Phase II-Intervention Implementation, Program Announcement #03030

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Controlling Asthma in American Cities Project Phase II-Intervention Implementation, Program Announcement #03030.

Times and Dates:

8:30 a.m.–9:15 a.m., July 23, 2003. (Open.)

9:15 a.m.–4:30 p.m., July 23, 2003. (Closed.)

8:30 a.m.–4:30 p.m., July 24, 2003. (Closed.)

Place: Sheraton Colony Square, 188 14th Street, Atlanta, GA 30361, Telephone 404–892–6000.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #03030.

Contact Person for More Information: Drue Barrett, Ph.D., Deputy Associate Director for Science, National Center for Environmental Health, CDC, 4770 Buford Highway, MS F29, Atlanta, GA 30341, Telephone 770–488–7653.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 25, 2003.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16531 Filed 6–30–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA–03–100 Fiscal Year 2003 Application Cycle for the Nurse Faculty Loan Program (NFLP); CFDA 93.264

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for the Nurse Faculty Loan Program for Fiscal Year 2003.

Purpose of Award: The Nurse Faculty Loan Program authorizes the Secretary to enter into an agreement with a school of nursing to establish and operate a student loan fund to increase the number of qualified nurse faculty.

Authorizing Legislation: These applications are solicited under the authority of Title VIII, section 846A of the Public Health Service (PHS) Act, as amended.

Statutory Matching or Cost Sharing Requirement: Under Section 846A of the PHS Act the school of nursing shall deposit in the loan fund an amount equal to not less than one-ninth of the Federal capital contribution (FCC) to such fund.

Eligible Applicants: Schools of nursing eligible to apply must be accredited and offer full-time advanced degree programs in nursing that contain an education component to prepare students to serve as nurse faculty.

Funding Priorities and/or Preferences: None.

Service Requirement: An amount of up to 85 percent of the loan (plus interest thereon) can be cancelled in exchange for the recipient working as faculty in a school of nursing following graduation.

Upon completion by the individual of each of the first, second, and third year of full-time employment as a faculty member in a school of nursing, the

school shall cancel 20 percent of the principal of, and the interest on, the amount of the loan unpaid on the first day of such employment. Upon completion of the fourth year of full-time employment as a faculty member in a school of nursing the school shall cancel 25 percent of the principal of, and the interest on the loan unpaid on the first day of such employment.

Review Criteria: The Nurse Faculty Loan Program for fiscal year 2003 is expected to be competitive. The program anticipates more funding requests than there are funds available. If there are insufficient funds to award all applicants who meet the eligibility criteria, applicants will be randomly selected until all funds are expended.

Estimated Amount of Available Funds: $3,000,000.

Estmated Number of Awards: 100.

Estimated or Average Size of Each Award: $15,000–$60,000.

Estimated Project Period: September 1, 2003–June 30, 2004.

Application Request and Award Process: Application materials will be available for downloading via the web at *http://www.bhpr.hrsa.gov/nursing/reinvestmentact.htm* on July 1, 2003. Applicants may also request a hard copy of the application material by calling (301) 443–6333. Applications may not be submitted electronically at this time. Applicants should note that HRSA anticipates accepting grant applications online in the last quarter of the Fiscal Year (July through September). In order to be considered for participation in this program, applications must be postmarked or delivered by July 31, 2003, to the Division of Nursing (NFLP), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, MD 20857. Applicants should request a legibly dated U.S. Postal postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing. An application receipt will be provided from the Division of Nursing by email to the applicant. Applications submitted after the deadline date will be returned to the applicant and not processed.

Projected Award Date: No later than September 30, 2003.

FOR FURTHER INFORMATION CONTACT: Denise Thompson, Division of Nursing, Bureau of Health Professions, HRSA, Room 9–36, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone number: (301) 443–6333. Fax number: (301) 443–0791. E-mail: *dthompson@hrsa.gov.*

Paperwork Reduction Act: The application has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. The program is not subject to Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: June 13, 2003.

Dennis P. Williams,

Deputy Administrator.

[FR Doc. 03–16509 Filed 6–30–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Mentored Scientist Development Award.

Date: July 24–25, 2003.

Time: 7:30 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Robert B. Moore, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7178, MSC 7924, Bethesda, MD 20892, 301/435–0725.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 19, 2003.

LaVerne, Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16503 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development special Emphasis Panel, School Readiness.

Date: July 17–18, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892. (301) 435–6911. *hopmannm@mail.nih.gov.*

Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS.)

Dated: June 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16497 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Neurodevelopmental Battery Assessment and Data Center.

Date: July 18, 2003.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 5100 Executive Blvd., Room 5E01, Bethesa, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.:*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 23, 2003.

LaVerne Y. Springfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16498 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personnel information concerning individuals associated with the grant applications, this disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, R13 Application Review.

Date: July 17, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Jeffrey I. Toward, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Extramural Project Review Branch, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 435–5337.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Prevention and Epidemiology Alcohol Special Emphasis Panel.

Date: July 18, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Sean N. O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

(Catalogue of federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: June 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16500 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice if hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6) Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, RFA ES–03–004: Centers for Children's Environmental Health and Disease Prevention Research.

Date: August 4–6, 2003.

Time: 8:30 a.m. to 5p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Hotels, 4700 Guardian Drive, Durham, NC 27703.

Contact Person: Linda K. Bass, PhD. Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709. (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health /sciences; 93.113, Biological Response to Environmental Health Hazards; 94.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16501 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Reproductive Genetics/NICHD Small Grants Program.

Date: July 14, 2003.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16502 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Lipotoxic Diseases in Acquired Dietinduced Obesity.

Date: July 17, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maxine A. Lesniak, MPH, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892. (301) 594–7792, *lesniakm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Frequent Hemodialysis Clinical Trials.

Date: July 30, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Maxine A. Lesniak, MPH, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892. (301) 594–7792, *lesniakm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16504 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 30, 2003, 8 a.m. to July 1, 2003, 5 p.m. Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD, 20814 which was published in the **Federal Register** on June 16, 2003, 68 FR 35683–35685.

The ending time of the meeting has been changed to 3 p.m. on July 1, 2003. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: June 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16499 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Purusant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 PHRA(92)S: Focal adhesions.

Date: June 26, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, *gibsonj@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS7 10B: Small Business: Imaging Technologies: MRI/PET.

Date: July 1, 2003.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert J. Nordstrom, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–1175, *nordstrr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Chemistry: Small Business Panel.

Date: July 8, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, 301–435–1723, *nelsonja@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 VACC 02: Biodefense Vaccines.

Date: July 9–10, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel RFA for Genetic Modifiers of Interest to NIDDK.

Date: July 10, 2003.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, 301–435–1037, *dayc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Social Sciences, Nursing, Epidemiology, and Methods.

Date: July 10–11, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Terrace, 1515 Rhode Island Ave., Washington, DC 20005.

Contact Person: Denise Wiesch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684.

Name of Committee: Center for Scientific Review Special Emphasis Panel Shared Instrumentation.

Date: July 10, 2003.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville,MD 20852.

Contact Person: Gopa Rakhit, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–1721.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRGI VACC (12): Small Business-Viral & Bacterial Vaccines.

Date: July 10, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

Name of Committee: Center for Scientific Review Special Emphasis Panel SSS 3 (50) Bioengineering.

Date: July 14, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783), *sharmag@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 F10 (40) Program Project: Biological Packaging.

Date: July 15, 2003.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Infectious Diseases and Microbiology.

Date: July 15–16, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington Hotel, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Marian Wachtel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7858, Bethesda, MD 20892, 301–435–1148, *wachtelm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Pathways Linking Education to Health.

Date: July 15–16, 2003.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Yvette M. Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel Neuro AIDS and other End-organ Diseases.

Date: July 15, 2003.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Abraham P. Bautista, MS, MSC, PhD, Scientist Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506, *bautista@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG 1 PTHB 02M: Molecular and Cellular Carcinogenesis.

Date: July 15, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6212, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 BIO (03) R15.

Date: July 15, 2003.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael M. Sveda, PhD, Scientific Review Administrator, Biochemistry Study Section, Biochemical Sciences IRG, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–3565, *svedam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Molecular Basis of Apoptosis.

Date: July 15, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG 1 UROL: Urology.

Date: July 15, 2003.

Time: 2 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG 1 CVBO3(M): Myocardial remodeling.

Date: July 15, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Neurophysiology of Ethanol.

Date: July 15, 2003.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1247, *eskayr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 GRM (04) Musculoskeletal Sciences.

Date: July 15, 2003.

Time: 12 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 ENR: Endocrinology and Reproductive Sciences.

Date: July 16, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Harry Brodie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular Biology of Cancer.

Date: July 16, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Oncological Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 2081–9692, (301) 435–3504. *vf6n@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Ewing's Sarcoma Therapy.

Date: July 16, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed M. Quardri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cognitive and Motor Development.

Date: July 16, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transcription Mechanisms, and Regulation.

Date: July 16, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 UROL (10): Small Business: Urology.

Date: July 16, 2003.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333; Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–16505 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health; Notice of Availability of Proposed Minimum Performance Standards (MPS) for Three Types of *In vitro* Methods for Assessing the Dermal Corrosivity Hazard Potential of Chemicals; Request for Comments

Summary

The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces the availability of and invites public comment on proposed MPS for three types of *in Vitro* methods for assessing the dermal corrosivity hazard potential of chemicals. The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Dermal Corrosivity and Irritation Working Group (DCIWG) developed these proposed MPS. The ICCVAM developed the proposed MPS to communicate criteria which could be used to determine if similar test methods have comparable accuracy and reliability.

Availability of the Proposed MPS

Copies of the MPS are available electronically in PDF format on the ICCVAM/NICEATM web site at *http://iccvam.niehs.nih.gov* or in printed form by contacting Dr. William Stokes, NICEATM Director, NIEHS, P.O. Box 12233, MD EC–17, Research Triangle Park, NC, 27709, (phone) 919–541–3398, (fax) 919–541–0947, (e-mail) *iccvam@niehs.nih.gov.*

Request for Comments

NICEATM invites the submission of written comments on the proposed MPS. When submitting written comments, please refer to this **Federal Register** notice and provide applicable contact information (name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization). Written comments should be sent by mail, fax, or e-mail to NICEATM (contact information provided above) by noon on August 15, 2003. All written comments received by this date will be posted on the ICCVAM/NICEATM web site and will be considered by the DCIWG and ICCVAM during development of the final ICCVAM MPS for these assays. Final ICCVAM MPS will be published as addendums to previously published ICCVAM reports on these test methods and will be forwarded to Federal agencies for their consideration. Availability of the final MPS will be announced via a **Federal Register** notice. Copies of the MPS will be made available electronically in PDF format on the ICCVAM/NICEATM web site or can be obtained in printed form by contacting NICEATM (contact information provided above).

Supplemental Information about the Proposed MPS

ICCVAM previously evaluated and recommended four validated test methods for assessing the dermal corrosivity hazard potential of chemicals: Corrositex®, EPISKIN™, EpiDerm™ (EPI–200), and the rat skin transcutaneous electrical resistance (TER) Assay (NIEHS 1999 and NIEHS 2002). Subsequently, the U.S. Environmental Protection Agency (EPA) requested that ICCVAM establish MPS for the three proprietary dermal corrosivity test methods (Corrositex®, EPISKIN™, EpiDerm™) and the non-proprietary rat skin TER test method. In response, the ICCVAM DCIWG drafted proposed MPS based on the validated reference test methods for these three types of *in vitro* dermal corrosivity assays: membrane barrier test methods, human skin model system test methods, and skin TER test methods.

The purpose of the MPS is to communicate the basis on which a validated and accepted proprietary (*e.g.*, copyrighted, trademarked, registered) or non-proprietary test method has been determined to have sufficient accuracy and reliability for a specific testing purpose. Accuracy refers to the ability of the test method to correctly predict or measure the biological effect of interest (also referred to as relevance) while reliability refers to the extent of intra- and inter-laboratory reproducibility. MPS also provide the criteria that should be met by other proposed test methods that are based on similar scientific principles and that measure or predict the same biological or toxic effect.

The three elements of MPS are:

- Minimum procedural standards that identify essential structural, functional, and procedural components of the validated reference test method (*e.g.*, procedural details, proper controls, morphologic structure and integrity of the test system, biological identity of key components, and expected biological responsiveness). Adherence to the minimum procedural standards will help to assure that the proposed test method is based on the same concepts as the referenced test method.
- A list of recommended reference chemicals that can be used to assess the accuracy and reliability characteristics of the proposed test method. The list includes substances that are representative of the chemical and product classes for which the validated test method is considered applicable, as well as substances that are representative of the range of responses (*e.g.*, negative, weak to strong positive) that the validated test method is capable of measuring or predicting.
- The accuracy and reliability that should be achieved by the proposed test method when evaluated using the minimum list of reference chemicals.

Background Information on ICCVAM and NICEATM

The NIEHS established the ICCVAM in 1997 to coordinate the interagency technical review of new, revised, and alternative test methods of interagency interest, and to coordinate cross-agency issues relating to the validation, acceptance, and national/international harmonization of toxicological testing methods. ICCVAM was established as a permanent interagency committee of the NIEHS under the NICEATM on December 19, 2000, by the ICCVAM Authorization Act of 2000 (Pub. L. 106–545, available at *http://iccvam.niehs.nih.gov/about/PL106545.pdf.* The Committee is composed of representatives from fifteen Federal regulatory and research agencies that use or generate toxicological information. Its purpose is to promote the scientific validation and regulatory acceptance of toxicological test methods that will improve the agencies' ability to accurately assess the safety or hazards of chemicals and various types of products, while refining, reducing, and replacing animal use wherever possible. NICEATM provides operational and scientific support for ICCVAM and ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the following web site: *http://iccvam.niehs.nih.gov.*

References

NIEHS. 1999. Corrositex® An *In Vitro* Test Method for Assessing Dermal Corrosivity Potential of Chemicals. NIH Publication No. 99–4495. Available at: *http://iccvam.niehs.nih.gov/methods/corrode.htm.*

NIEHS. 2002. ICCVAM Evaluation of EPISKIN™, EpiDerm™ (EPI–200), and the Rat Skin Transcutaneous Electrical

Resistance (TER) Assay: *In Vitro* Test Methods for Assessing Dermal Corrosivity Potential of Chemicals. NIH Publication No. 02–4502. Available at *http://iccvam.niehs.nih.gov/methods/epiderm.htm.*

Dated: June 12, 2003.

Samuel Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 03–16506 Filed 6–30–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) published in the **Federal Register** on April 11, 1988 (53 FR 11970), and revised in the **Federal Register** on June 9, 1994 (59 FR 29908) and on September 30, 1997 (62 FR 51118). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from HHS' National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2, Room 815, Rockville, Maryland 20857; 301–443–6014 (voice), 301–443–3031 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification, a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines, the following laboratories meet the minimum standards set forth in the Mandatory Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–6870, (Formerly: Jewish Hospital of Cincinnati, Inc.).

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917.

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (Formerly: Cox Medical Centers).

Diagnostic Services Inc., dba DSI, 12700 Westlinks Dr., Fort Myers, FL 33913, 239–561–8200/800–735–5416.

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468.

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2661/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories*, 10150–102 St., Suite 200, Edmonton, Alberta, Canada TJ5 5E2, 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609.

Express Analytical Labs, 3405 7th Ave., Suite 106, Marion, IA 52302, 319–377–0500.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.).

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Rd., Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Dr., Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272, (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 1120 Stateline Rd. West, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (Formerly: NOVAMANN (Ontario) Inc.).

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Dr., Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 S., Salt Lake City, UT 84124, 801–293–2300/800–322–3361, (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.).

One Source Toxicology Laboratory, Inc., 1705 Center St., Deer Park, TX 77536, 713–920–2559, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891 x8991.

PharmChem Laboratories, Inc., 4600 N. Beach, Haltom City, TX 76137, 817–605–5300, (Formerly: PharmChem Laboratories, Inc., Texas Division; Harris Medical Laboratory).

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–824–6152, (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750, (Formerly: Associated Pathologists Laboratories, Inc.).

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories).

Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130.

Sciteck Clinical Laboratories, Inc., 317 Rutledge Rd., Fletcher, NC 28732, 828–650–0409.

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520, (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Sure-Test Laboratories, Inc., 2900 Broad Ave., Memphis, TN 38112, 901–474–6028.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

Dated: June 26, 2003.

Anna Marsh,

Acting Executive Officer, SAMHSA.

[FR Doc. 03–16674 Filed 6–30–03; 8:45 am]

BILLING CODE 4160–20–P

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on June 9, 1994 (59 FR 29908) and on September 30, 1997 (62 FR 51118). After receiving DOT certification, the laboratory will be included in the monthly list of HHS certified laboratories and participate in the NLCP certification maintenance program.

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

[CIS No. 2280–03]

RIN 1650–AB06

Extension of the Designation of Montserrat Under Temporary Protected Status Program

AGENCY: Bureau of Citizenship and Immigration Services, Homeland Security.

ACTION: Notice.

SUMMARY: The designation of Montserrat under the Temporary Protected Status (TPS) Program will expire August 27, 2003. This notice extends the designation of Montserrat for 12 months until August 27, 2004, and sets forth procedures necessary for nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) with TPS to re-register and to apply for an extension of their employment authorization documentation for the additional 12-month period. Re-registration is limited to persons who registered under the initial designation, which ended on August 27, 1998, and also timely re-registered under the extensions of designation. Certain nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

EFFECTIVE DATES: The extension of Montserrat's TPS designation is

effective August 27, 2003, and will remain in effect until August 27, 2004. The 60-day re-registration period begins July 1, 2003, and will remain in effect until September 2, 2003.

FOR FURTHER INFORMATION CONTACT:

Jonathan Mills, Department of Homeland Security, Bureau of Citizenship and Immigration Services, 425 ''I'' Street, NW., Room 3040, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Secretary of the Department of Homeland Security Have To Extend the Designation of Montserrat Under the TPS Program?

On March 1, 2003, the functions of the Immigration and Naturalization Service (Service) transferred from the Department of Justice to the Department of Homeland Security (DHS) pursuant to the Homeland Security Act of 2002, Public Law 107–296. The responsibilities held by the Service for administering the TPS program were transferred to the Bureau of Citizenship and Immigration Services (BCIS).

Under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, the Secretary of DHS, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state or (part thereof) for TPS. The Secretary of DHS may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state).

Section 244(b)(3)(A) of the Act requires the Secretary of DHS to review, at least 60 days before the end of the TPS designation or any extension thereof, the conditions in a foreign state designated under the TPS program to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of TPS. (8 U.S.C. 1254a(b)(3)(A)). If the Secretary of DHS determines that the foreign state no longer meets the conditions for TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act (8 U.S.C. 1254a(b)(3)(B)). Finally, if the Secretary of DHS does not make the required determination prior to the 60-day period prescribed by statute, section 244(b)(3)(C) of the Act provides for an automatic extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary of DHS, a period of 12 or 18 months) (8 U.S.C. 1254a(b)(3)(C)).

Why Did the Secretary of DHS Decide To Extend the TPS Designation for Montserrat?

On August 28, 1997, the Attorney General designated Montserrat under the TPS program for a period of 12 months due to volcanic eruptions that affected the entire island and its residents. 62 FR 45685. The Attorney General extended Montserrat's TPS designation five times, determining each time that the conditions warranting such designation continued to be met. *See* 67 FR 47002 (July 17, 2002); 66 FR 40834 (August 3, 2001); 65 FR 58806 (October 2, 2000); 64 FR 48190 (September 2, 1999); 63 FR 45864 (August 27, 1998).

Since the date of the last extension, the Departments of Homeland Security and State have continued to review conditions in Montserrat. A 12-month extension is warranted due to the threat of further volcanic activity, serious health risks from hazardous ash, and lack of infrastructure, including no functioning airport.

Citing recommendations made by the September 2002 Montserrat Volcano Risk Assessment Panel and a late December 2002 appraisal of the situation, the Department of State reports that persons who were evacuated from their homes because of volcanic eruptions that occurred in 1997 are still unable to safely return. DOS Recommendation for the Extension of TPS (May 9, 2003). The amount of magma in the volcano continues to grow, as does its lava dome. Id. Volcanic threats to many areas surrounding the volcano have increased since the most recent Hazard and Risk Assessment, which occurred in October 2002. Id. As a result, the government of Montserrat expanded the ''exclusion zone'' of the island. BCIS Resource Information Center (May 5, 2003). The southern two-thirds of the island is buried in volcanic material and uninhabitable. *Id.*

The Department of State further notes that emergency measures remain in place in Montserrat. DOS Recommendation for Extension of TPS. A lack of infrastructure, including no functioning airport, continues to exist. *Id.* Two-thirds of the pre-eruption population of 12,000 has left the island. Id. Unemployment is high and few jobs remain outside of construction, most of which is aimed at making the north end of the island habitable for those who remain. *Id. A de facto* capital has been built in the village of Salem, but the government continues to operate out of makeshift quarters. BCIS Resource Information Center.

Based upon this review, the Secretary of DHS, after consultation with appropriate Government agencies, finds that the conditions that prompted designation of Montserrat under the TPS program continue to be met (8 U.S.C.1254a(b)(3)(C)). There continues to be a substantial, but temporary, disruption of living conditions in Montserrat as the result of an environmental disaster, and Montserrat continues to be unable, temporarily, to handle adequately the return of its nationals (8 U.S.C. 1254a(b)(1)(B)(i)-(ii)). On the basis of these findings, the Secretary of DHS concludes that the TPS designation for Montserrat should be extended for an additional 12-month period.

If I Currently Have TPS Through the Montserrat TPS Program, Do I Still Re-Register for TPS?

Yes. If you already have received TPS benefits through the Montserrat TPS program, your benefits will expire on August 27, 2003. Accordingly, individual TPS beneficiaries must comply with the re-registration requirements described below in order to maintain their TPS benefits through August 27, 2004. TPS benefits include temporary protection against removal from the United States, as well as work authorization, during the TPS designation period and any extension thereof (8 U.S.C. 1254a(a)(1)).

If I am Currently Registered for TPS, How Do I Re-Register for an Extension?

All persons previously granted TPS under the Montserrat program who wish to maintain such status must apply for an extension by filing (1) a Form I–821, Application for Temporary Protected Status, without the filing fee; (2) a Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches x 1½ inches). Applications submitted without the required fee and/or photos will be returned to the applicant. See the chart below to determine whether you must submit the one hundred and twenty dollar ($120) filing fee with Form I–765. Applicants for an extension of TPS benefits do not need to be re-fingerprinted and thus need not pay the $50 fingerprint fee. Children beneficiaries of TPS who have reached the age of fourteen (14) but were not previously fingerprinted must pay the fifty dollar ($50) fingerprint fee with the application for extension.

Submit the completed forms and applicable fee, if any, to the BCIS district office having jurisdiction over your place of residence during the 60-day re-registration period that begins

July 1, 2003, and ends September 2, 2003 (inclusive of such end date).

If	Then
You are applying for employment authorization until August 27, 2004.	You must complete and file the Form I–765, Application for Employment Authorization, with the $120 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file Form I–765 with no fee.[1]
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Form I–765 and (2) a fee for waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

[1] An applicant who does not seek employment authorization documentation does not need to submit the $120 fee, but must still complete and submit Form I–765 for data gathering process.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit, and vise versa. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS (8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii)).

Does This Extension Allow Nationals of Montserrat (or Aliens Having No Nationality Who Last Habitually Resided in Montserrat) Who Entered the United States After August 28, 1997, To File for TPS?

No. This is a notice of an extension of TPS, not a notice of re-designation of Montserrat under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those who are not already TPS class members. To be eligible for benefits under this extension, nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) must have resided continuously in the United States since August 22, 1997, and have been continuously physically present in the United States since August 28, 1997.

What Is Late Initial Registration?

Some persons may be eligible for late initial registration under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of Montserrat (or alien who has no nationality and who last habitually resided in Montserrat);

(2) Have been continuously physically present in the United States since August 28, 1997;

(3) Have continuously resided in the United States since August 22, 1997; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period from August 28, 1997, through August 27, 1998, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above (8 CFR 244.2(g)).

What Happens When This Extension of TPS Expires on August 27, 2004?

At least 60 days before this extension of TPS expires on August 27, 2004, the Secretary of DHS will review conditions in Montserrat and determine whether the conditions for designation under the TPS program continue to be met at that time, or whether the TPS designation should be terminated. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

If the TPS designation is extended at that time, an alien who has received TPS benefits must re-register under the extension in order to maintain TPS benefits. If, however, the Secretary of DHS terminates the TPS designation, TPS beneficiaries will maintain the immigration status they had before TPS (unless that status had since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if an alien had no lawful immigration status prior to receiving TPS and did not obtain any status during the TPS period, he or she will revert to that unlawful status upon termination of the TPS designation.

Notice of Extension of Designation of Montserrat Under the TPS Program

By the authority vested in me as Secretary of DHS under sections 244(b)(1)(B), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of Montserrat for TPS continue to be met (8 U.S.C. 1254a(b)(3)(A)). Accordingly, I order as follows:

(1) The designation of Montserrat under section 244(b) of the Act is extended for an additional 12-month period from August 27, 2003, to August 27, 2004 (8 U.S.C. 1254a(b)(3)(C)).

(2) There are approximately 325 nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of Montserrat (or an alien having no nationality who last habitually resided in Montserrat) who received TPS during the initial designation period must re-register for TPS during the 60-day re-registration period from July 1, 2003, until September 2, 2003.

(4) To re-register, the applicant must file the following: (1) Form I–821, Application for Temporary Protected Status; (2) Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches by 1½ inches). Applications submitted without the required fee and/or photos will be rejected. There is no fee for filing a Form I–821 filed as part of the re-registration application. If the applicant requests employment authorization, he or she must submit one hundred and twenty dollars ($120) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee. Child beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted are required to pay a fifty-dollar ($50) fingerprint fee. Failure to re-register without good cause will result in the withdrawal of TPS (8 CFR 244.17(c)). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension terminates on August 27,

2004, the Secretary will review the designation of Montserrat under the TPS program and determine whether the conditions for designation continue to be met (8 U.S.C. 1254a(b)(3)(A)). Notice of that determination, including the basis for the determination, will be published in the **Federal Register** (8 U.S.C. 1254a(b)(3)(A)).

(6) Information concerning the extension of designation of Montserrat under the TPS program will be available at local BCIS offices upon publication of this notice and on the BCIS Web site at *http://www.bcis.gov/graphics/index.htm*.

Dated: June 25, 2003.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03–16567 Filed 6–30–03; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Conditionally Free Under Conditions of Emergency

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Conditionally Free Under Conditions of Emergency. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 20396) on April 25, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 31, 2003.

ADDRESSES: 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 Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Free Admittance Under Conditions of Emergency.

OMB Number: 1651–0044.

Form Number: N/A.

Abstract: This collection of information will be used in the event of emergency or catastrophic event to monitor goods temporarily admitted for the purpose of rescue or relief.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1 minute.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annualized Cost on the Public: N/A.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 23, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16608 Filed 6–30–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Harbor Maintenance Fee

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Harbor Maintenance Fee. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 20395) on April 25, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 31, 2003.

ADDRESSES: 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 Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and

suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Harbor Maintenance Fee.

OMB Number: 1651–0055.

Form Number: Forms 349 and 350.

Abstract: This collection of information will be used to verify that the Harbor Maintenance Fee paid is accurate and current for each individual, importer, exporter, shipper, or cruise line.

Current Actions: This submission is being submitted to extend the expiration date with a change to the burden hours.

Type of Review: Extension (with change).

Estimated Number of Respondents: 5,200.

Estimated Time Per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 2,816.

Estimated Total Annualized Cost on the Public: $42,240.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 23, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16609 Filed 6–30–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–29]

Notice of Proposed Information Collection: Comment Request; Eligibility of a Nonprofit Corporation/ Housing Consultant Certification

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 2, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne__Eddings@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 35, is amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Eligibility of a Nonprofit Corporation/Housing Consultant Certification.

OMB Control Number, if applicable: 2502–0057.

Description of the need for the information and proposed use: The Department wants to prevent incidences in which nonprofit transactions are actually controlled by a profit motivated entity rather than a nonprofit sponsor/ mortgagor. The Department is required to make a determination that the nonprofit sponsor/mortgagor is acting on its own behalf and is not, either knowingly or unwittingly under the influence, control, or direction of any outside party seeking to derive a profit or gain from the proposed project. Additionally, the Department must determine if Housing Consultants hired by the sponsor/mortgagor are acting independently. The Department must also determine if the proposed services are sufficient to permit development, completion, and successful operation of the project, and if the proposed fees charged by the Housing Consultants are reasonable.

Agency form number, if applicable: HUD–3433, HUD–3434, HUD–3435, and HUD–92531.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of annual hours needed to prepare the information collection is 115; the number of respondents is 320 generating 320 annual responses; the frequency of response is on occasion or once during the application period; and the estimated time needed to prepare the response varies from 15 minutes to 45 minutes.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 20, 2003.

John C. Wercher,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 03–16512 Filed 6–30–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D–37]

Delegation of Authority to the Director of the Office of Healthy Homes and Lead Hazard Control

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: In this notice, the Secretary delegates to the Director of the Office of Healthy Homes and Lead Hazard Control, all authority of the Secretary pursuant to the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, sections 501 and 502 of the Housing and Urban Development Act of 1970 for matters pertaining to healthy homes, the Lead Disclosure Rule, and the Lead Safe Housing Rule.

EFFECTIVE DATE: June 24, 2003.

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Office of Finance and Regulatory Enforcement, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0001, (202) 708–3137, extension 5190. This is not a toll-free number. Speech- or hearing-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary delegates to the Director of the Office of Healthy Homes and Lead Hazard Control all authority of the Secretary pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 *et seq.*); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*); sections 501 and 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 and 1701z–2) for matters pertaining to healthy homes; the Lead Disclosure Rule (24 CFR part 35, subpart A); the Lead Safe Housing Rule (24 CFR part 35, subparts B through R); and authorizing legislation pertaining to healthy homes and/or lead hazard control contained within annual appropriations acts.

Section B. Authority Excepted

The authority delegated in this document does not include the authority to issue or waive regulations, or to sue and be sued.

Section C. Authority to Redelegate

The Secretary authorizes the Director of the Office of Healthy Homes and Lead Hazard Control to redelegate the authority described in Section A.

Section D. Delegations of Authority Superseded

This delegation supersedes any existing notices of delegations of authority concerning this function prior to March 1, 2003.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 24, 2003.

Mel Martinez,

Secretary.

[FR Doc. 03–16594 Filed 6–30–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4826–N–02]

Notice of Availability of Alternative Fuel Vehicle Reports

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of availability of reports.

SUMMARY: Through this notice, HUD is making available on its Web site, a copy of HUD's Alternative Fuel Vehicles Report for Fiscal Year 2002 that was prepared in accordance with the Energy Policy Act of 1992.

FOR FURTHER INFORMATION CONTACT: Robert E. Byrd, Jr., Director, Facilities Management Division, Office of Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–3000, at (202) 708–1955 (this is not a toll-free number). Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service number at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Energy Policy Act (42 U.S.C. 13201 *et seq.*) (the Act) establishes a comprehensive plan to achieve economic, energy and environmental benefits by promoting the use of alternative fuels. A major goal of the Act is to have the Federal government exercise leadership in the use of alternative fuel vehicles. To that end, the Act established alternative fuel vehicle purchasing requirements for the Federal fleets of government agencies, and requires Federal agencies to report on their compliance with the requirements of the Act. A copy of HUD's Alternative Fuel Vehicle Reports can be obtained via the World Wide Web at *http://www.hud.gov/offices/adm/reports/admreports.cfm.*

Dated: June 20, 2003.

Vickers B. Meadows,

Assistant Secretary for Administration/Chief Information Officer.

[FR Doc. 03–16511 Filed 6–30–03; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF LABOR

Office of the Secretary

Colombian Trade Union Training Program

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA 03–19).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations. USDOL will award up to U.S. $700,000 through one or more grants to an organization or organizations to develop and implement a project(s) designed to contribute to the reduction of social conflict and violence in Colombia by improving the ability of the Colombian trade union movement to participate in the economic, political and social development of the country; protect human and worker rights; and play a positive role in the peace process. USDOL will competitively award a grant to qualified organizations that demonstrate the capacity to design, implement, and manage a project to:

- Bring Colombian trade unionists to the U.S. or a third country to expose them to unionized workplaces with trade skills similar to those of the Colombian trade unionists in order to enhance their own skills and deepen their understanding of effective trade union administration and industrial relations in a workplace outside Colombia.
- Improve the skills of Colombian trade union leaders in trade union administration, collective bargaining, dispute prevention and resolution, English language, communication, and using computers.

DATES: The closing date for receipt of applications is Friday, August 8, 2003. Applications must be received by 4:45

p.m. (Eastern Time) at the address below.

ADDRESSES: Application forms will not be mailed. They are published as part of this **Federal Register** notice and in the **Federal Register**, which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html.* Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–19, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, *etc.,* will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, e-mail address: *harvey.lisa@dol.gov,* tel: (202) 693–4570 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The expansion of global trade and investment and the improvement of working conditions and protection of basic worker rights are best understood as mutually reinforcing, and not mutually exclusive objectives. In today's environment of widespread market reforms and economic integration, efficient and fair labor markets are a prerequisite for economic growth, increasing living standards, and promoting employment in the U.S. As political developments, market reforms, and the transition to a global economy bring significant changes to national economies, individual labor market systems need to change accordingly to remain viable and to support their populations. In addition, the inability to manage the development of a relatively open market economy during periods of political and social transition impedes the development of political democracy, social cohesion, and equity.

USDOL/ILAB carries out a worldwide International Cooperation Program that helps address some of these difficulties by working to ensure that the greatest possible number of workers benefit from a more open world economy. The three major initiatives of the International Cooperation Program are:

Improving Economic Opportunity and Income Security for Workers (EOIS)—Under the EOIS initiative, USDOL works to strengthen developing countries' abilities to build and institutionalize social safety net policies and programs needed to improve working conditions and foster economic growth. Projects under this initiative aim to increase employment among targeted groups, improve workplace safety and health, and increase access to social insurance.

Protecting the Basic Rights of Workers (PBRW)—Under the PBRW initiative, USDOL works to implement the fundamental principles embodied in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, specifically working towards strengthening the right to freedom of association and collective bargaining, eliminating forced or compulsory labor, and eliminating employment discrimination.

International HIV/AIDS Workplace-based Education Program (IHWEP)—Under the IHWEP initiative, USDOL works to reduce the rate of HIV/AIDS infection through workplace-based prevention and education programs and to improve the workplace environment for workers living with HIV/AIDS. The IHWEP program also works to build the capacity of the tripartite partners to address the long-term impact of HIV/AIDS on labor markets and economic development.

USDOL/ILAB manages its projects in partnership with stakeholders representing the government, employers, workers, and other organizations.

I. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Resolution, 2003, Pub. L. 108–7, 117 Stat. 11 (2003).

II. Application Process

A. Eligible Applicants

Any commercial, international, educational, or not-for-profit organization (including faith-based organizations) which has experience in trade union skills training, knowledge of the international trade union movement, experience working with the Colombian government, and Colombian worker and employer organizations, and/or has experience working with U.S. domestic trade unions is eligible for this grant(s). Partnerships of more than one organization are also eligible although in such a case a lead organization must be identified. The capability of an applicant, partners, and co-applicants to perform necessary aspects of this solicitation will be determined under Section XI—Review and Selection of Applications for Award. All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083) (*see* Appendix A).

Please note that eligible grant applicants must not be classified under the Internal Revenue Code as a 501(c)(4) entity (see 26 U.S.C. 501(c)(4)). According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) blue ink-signed original, complete application in English plus two (2) copies of the application must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, no later than 4:45 p.m. Eastern Time on the established due date. To aid with review of applications, USDOL also encourages applicants to submit three (3) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A (see Appendix A). These forms are also available at *http://www.whitehouse.gov/omb/grants.* Part II must contain a technical proposal that demonstrates capabilities in accordance with the statement of work (Section III) and the selection criteria (Section XI).

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 40 single-sided (8½″ x 11″ or A4), double-spaced, 12-point font, typed pages for which a response is submitted. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.* 8, with tab dividers), and all pages shall be numbered. Applicants are required to propose that a project address ALL of the project objectives identified in the Statement of Work in Section III. Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated. The application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. Standard forms, attachments,

résumés, exhibits, letters of support, and the abstract are not counted towards the page limit. If an applicant exceeds the stated page limit, the review panel has the discretion to deduct 10 points.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified, or it will not be considered. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, *etc.*, will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted.

Any application received at the Office of Procurement Services after 4:45 pm Eastern Time on Friday, August 8, 2003 will not be considered unless it is received before the award is made and:

- It was sent by registered or certified mail no later than the fifth calendar day before [Enter Date]; or
- It was sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee no later than 5 p.m. at the place of mailing two (2) working days (excluding weekends and Federal holidays), prior to [Enter date]; or
- It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee is the date entered by the Post Office receiving clerk on the ''Express Mail/Next Day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

All applicants are advised that U.S. mail delivery in the Washington DC area has been slow and erratic due to concerns involving anthrax contamination. Applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service.

D. Funding Levels

Up to U.S. $700,000 is available for this project, and USDOL reserves the right to award more than one grant. USDOL may award one or more grants to one organization or several, or to a partnership of more than one organization. The award of any sub-contract will be subject to USDOL approval (*see* Section IV).

E. Program Duration

The duration of the project funded by this SGA is up to two (2) years. The start date of program activities will be negotiated upon award of the grant, which will take place no later than September 30, 2003.

III. Statement of Work

This SGA announces the availability of funds for a project to contribute to the reduction of social conflict and violence in Colombia by improving the ability of the Colombian trade union movement to: participate in the economic, political and social development of the country; protect human and worker rights; and play a positive role in the peace process. Specific project objectives are identified in Section III.C. Applicants should submit proposals for projects that demonstrate the organizations' capabilities to implement a project in accordance with the Statement of Work and the selection criteria. USDOL encourages applicants to be creative in proposing innovative and cost-effective interventions that will produce a demonstrable impact. Funds will be provided by grant to qualifying organizations. The grant will be actively managed by USDOL/ILAB to assure achievement of the stated project objectives.

Note: Selection of an organization as a grant recipient does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

A. Background and Problem Statement

Violence against trade unionists and their leaders continues to be a critical problem in Colombia. In the midst of an armed conflict between the government, guerrillas, and paramilitary forces, unions have played a key role in mobilizing civil society in support of peace negotiations. As a result, both paramilitary forces and guerilla groups have targeted union leaders. According to the State Department's annual Human Rights Report, 178 labor unionists were killed in 2002 and 1,875 have been killed since 1991. Also in 2002, an additional 189 received death threats, 26 were kidnapped, 8 disappeared, and 17 members survived physical attempts on their life. According to former Colombian Labor Minister, Angelino Garzon, ''Colombia is losing an entire generation of labor leaders whose contribution to improving economic opportunities for workers through constructive dialogue with employers and government is invaluable.''

Violence against trade unionists is perpetuated by a climate of impunity. According to the State Department's Human Rights Report, there were 376 criminal investigations into violations of the right to life of unionists from August 1986 to April 2003. Of these, 321 were in the preliminary stage, 24 were at the investigative stage, 3 were at the trial stage, 7 had been sent to military criminal courts, and 13 were awaiting assignment. Guilty verdicts were issued in only five cases.

Despite these major challenges, Colombia's trade unions continue to play an important role as

representatives of workers in collective bargaining, as protagonists in key national debates over economic policy (such as social security and public sector reform), and as leading representatives of civil society and supporters of peace negotiations. But the combination of physical violence and economic insecurity has made it extremely difficult for Colombian trade union leaders to develop the organizational and administrative skills that they need to promote effective industrial relations and function in a modern economy.

B. Target Population

The grantee will establish a selection procedure to identify Colombian trade union leaders who could benefit from advanced training in trade union administration, collective bargaining, dispute prevention and resolution, and related skills.

C. Objectives

The Grantee will implement, in partnership with USDOL, a project designed to contribute to the reduction of social conflict and violence in Colombia by improving the ability of the Colombian trade union movement to participate in the economic, political and social development of the country; protect human and worker rights; and play a positive role in the peace process. Specific project objectives include:

- Improving the skills of Colombian trade union leaders in trade union administration, collective bargaining, dispute prevention and resolution, English language, communications, and using computers.
- Bringing Colombian trade unionists to the U.S. or a third country to expose them to unionized workplaces with trade skills similar to those of the Colombian trade unionists in order to enhance their own skills and deepen their understanding of effective trade union administration and industrial relations in a workplace outside Colombia.

Relationship to USDOL Strategy: By helping to improve the capacity of trade union leaders to contribute to the political, economic, and social development of Colombia, protect human and worker rights, and play a positive role in the peace process, the proposed project supports achievement of USDOL's GPRA goal (3.3b) to, ''Improve living standards and conditions of work for workers in developing and transition countries.''

D. Type of Work To Be Performed/ Activities

The selected Grantee(s) will be responsible for developing a strategy for successfully achieving the stated objectives of the project and addressing the problem(s) identified in the Background and Problem Statement, developing and implementing the major tasks to be accomplished as part of that strategy, tracking and reporting on progress in achieving the stated objectives, and providing any necessary services.

When developing the strategy and activities, the Applicant should take into consideration the following issues:

- Need to carefully select for training those trade union leaders who are: (a) Committed to training other trade unionists upon completion of their training in the U.S. or a third country, (b) most likely to adapt to living conditions in the U.S., (c) capable of learning in all skill areas, and (d) well-respected within the labor community for their commitment to democracy, honesty, transparency, and the peaceful resolution of conflict.
- Need to effectively orient trainees prior to departure to U.S. or a third country for training.
- Need to offer on-going counseling to those trainees who may require it throughout their training in the U.S. or third country.
- Need to ensure that trainees are provided with opportunities to disseminate their learning to other trade unionists upon return to Colombia.

E. Expected Outcomes/Project Outputs

By the end of the grant period, the project will have:

- Trained at least 20 trade union leaders in trade union administration, collective bargaining, dispute prevention and resolution, English language, communication, and computer skills.
- Established a communication network between international trade unions and non-governmental organizations that will provide continued support to the trade union leaders upon their return to Colombia.
- Developed a plan to safely reintegrate the trade union leaders into Colombia.
- Developed and implemented a system to ensure that the trained trade union leaders disseminate the information and skills that they learned in the U.S. or third country to their Colombian counterparts.

The selected Grantee will be responsible for identifying and producing the activities, outputs, and deliverables that will support achievement of these expected outcomes.

F. Deliverables

Following the award of the grant, the Grantee(s) shall collaborate with USDOL/ILAB to:

- Develop a Project Document (including a project budget) that will set the technical parameters and provide guidance to the project. It should include all information and be prepared according to the standardized format outlined by USDOL. While the Applicant's original proposal will serve as the basis of the Project Document, in every case USDOL has found it advantageous to visit the field and reach consensus on the project strategy with host country counterparts in order to further inform the project design. USDOL must receive a draft of the Project Document 45 days after returning from travel to the relevant area(s). The Project Document must be finalized no later than 30 days after receipt of USDOL comments on the draft.
- Establish a Workplan identifying major project activities, deadlines for their completion, and person(s) responsible for completing these activities (within 60 days after the Project Document is finalized).
- Set project indicators, including indicators that support ILAB's Government Performance and Results Act (GPRA) goal, ''Improve living standards and conditions of work for workers in developing and transition countries.'' (within 90 days of finalizing the Project Document).
- Create a Performance Monitoring Plan (PMP) to establish the data needed to measure achievement of project indicators and the methods for collection and reporting. It should include all information and be prepared according to the standardized format outlined by USDOL (within 90 days of finalizing the Project Document).

The Grantee(s) must submit copies of all required documents to USDOL by the specified due dates. Other documents that may be produced are to be submitted by mutually agreed-upon deadlines. The Project Document, Workplan, project indicators, PMP, and data collection system are subject to final approval by the Grant Officer's Technical Representative (GOTR) responsible for monitoring the grant.

G. Special Program Requirements

1. USDOL Responsibilities

Following the award of the grant(s), USDOL shall:

• Provide the Grantee(s) with programmatic support to help ensure effective implementation of the project, including training and consultation in USDOL/ILAB management, monitoring, and evaluation systems and standard operating procedures.

• Provide advice and consultation to Grantee(s) on specific program criteria.

• If, based upon the responses to this solicitation and subsequent to the award, USDOL determines that it is necessary, travel to the field with the Grantee(s) and other technical experts for a project design mission before finalizing the project design and the Project Document. USDOL will procure the services of technical experts if it determines that such expertise is necessary for the project design mission.

• Fund at least two project evaluations—a mid-term evaluation at approximately the midpoint of the grant period and a final evaluation approximately two months prior to the end of the grant period. USDOL/ILAB—in consultation with the Grantee(s)—will be responsible for drafting and finalizing all evaluation Terms of Reference (TOR), procuring the services of an independent evaluator (who will write the evaluation report), and providing at least one representative from USDOL/ILAB to participate on the evaluation team, when appropriate. USDOL/ILAB may choose to perform additional evaluations as appropriate.

• Have the right, at all reasonable times, to review all documents pertaining to the project, participate on field missions (including monitoring and evaluation missions), and to discuss administrative and technical issues pertaining to the project with the Grantee.

2. Grantee Responsibilities

Following the award of the grant(s), the Grantee(s) shall:

• Establish the institutional and management systems and means necessary to provide and monitor the delivery of services and distribute wages and material effectively.

• If USDOL determines that it is necessary, travel to the field with USDOL and other technical experts for a project design mission before finalizing the project design and the Project Document. The Grantee(s) shall bear the financial costs for having its representative(s) participate on the project design mission.

• Assist in project evaluations, including reviewing and providing comments on the evaluation Terms of Reference (TORs) drafted by USDOL and evaluation reports written by the lead evaluator. If invited to participate on an evaluation mission by USDOL, the Grantee(s) shall bear the financial costs for having a representative of the Grantee(s) participate on an evaluation team (*e.g.*, travel, per diem).

• Submit trip reports to USDOL within fourteen (14) calendar days of project-related travel. If the implementing partner travels with a USDOL staff member, the implementing organization will submit a draft trip report to the staff member within fourteen (14) calendar days of project-related travel for comments. The format for the trip report will be provided by USDOL.

• Inform USDOL/ILAB at least one (1) month prior to scheduling any major public events or ceremonies regarding the project.

• Submit to USDOL all media-related and educational materials developed by it or its sub-contractors under this Grant(s), including relevant press releases, for use in this project before they are reproduced, published, or used. The Grantee(s) must consult with USDOL to ensure that materials are compatible with USDOL materials relating to its International Cooperation Program. USDOL considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the project to be educational materials. USDOL will review materials for technical accuracy. USDOL will also review training curricula and purchased training materials for accuracy before they are used. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant. All materials produced by Grantee(s) must be provided to USDOL in digital format for possible publication on the Internet by USDOL.

IV. Key Personnel and Sub-Contractors

USDOL expects all key personnel to work full-time on the project. All key personnel must be fluent in both written and spoken Spanish and English. The Grant Officer must approve candidates for all key personnel positions. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all key personnel positions. The Grantee(s) shall submit rèsumès, *curricula vitae,* and other relevant information to the GOTR and receive approval from the Grant Officer before extending an offer of employment and before the nominated individual conducts any activities.

Key personnel may only be changed with the approval of the Grant Officer. The Grantee(s) shall not substitute or replace key personnel unless new personnel are at least equal in qualifications to those personnel who are replaced. If a need to find new key personnel arises, the Grantee(s) shall notify the GOTR as soon as the need becomes known. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

Organizations may apply for funding in partnership with other organizations, but in such a case, a lead organization must be identified. Use of sub-contractors is subject to Federal laws and regulations, including OMB circulars requiring free and open competition for procurement transactions.

The Grant Officer must approve all sub-contractors. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all sub-contractors. The lead organization shall submit a list of previous projects implemented by the proposed sub-contractor, along with a description of qualifications, rèsumès, *curricula vitae,* and other relevant information to the GOTR and receive approval from the Grant Officer before extending a sub-contract. The lead organization shall not substitute or replace sub-contractors unless new sub-contractors are at least equal in qualifications to those that are replaced. Sub-contractors may only be changed with the approval of the Grant Officer. If a need to find new sub-contractors arises, the lead organization shall notify the GOTR as soon as the need becomes known.

Note: Except as specifically provided, USDOL/ILAB acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, if an application identifies a specific sub-contractor to provide the services, the USDOL/ILAB award does not provide the justification or basis to sole-source the procurement, *i.e.*, to avoid competition.

V. Reporting Requirements

All reports (*see* Appendix B) are due no later than 30 days after the end of a fiscal quarter and shall be submitted in English. USDOL/ILAB and the Grantee(s) should work together to resolve any issues within 30 days of receipt of a report.

A. Financial Reports

The Grantee(s) shall submit financial reports on a quarterly basis. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the grant was signed.

The Grantee(s) shall use Standard Form (SF) 269A, *Financial Status Report,* to report the status of the funds, at the project level, during the grant period. A final SF269A shall be submitted no later than 90 days following completion of the grant period.

If the Grantee(s) uses the U.S. Department of Health and Human Services Payment Management System (HHS PMS), they shall also send USDOL copies of the PSC 272 that it submits to HHS, on the same schedule. Otherwise, the Grantee(s) shall submit Standard Form (SF) 272, *Federal Cash Transactions Report,* on the same schedule as the SF269A.

Financial reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30, July 30, October 30, and January 30).

B. Technical Reporting Requirements

After signing the agreement, the Grantee(s) shall submit progress reports to USDOL/ILAB at the end of each fiscal quarter. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the Grant was signed. Between reporting dates, the Grantee(s) shall also immediately inform USDOL/ILAB of significant developments and/or problems affecting the organization's ability to accomplish work.

The Grantee(s) shall submit two types of progress reports according to the standardized format used by USDOL/ILAB:

1. Status Reports

Status Reports compare actual and planned activities during the reporting period, which consists of one quarter (January—March and July—September). Its purpose is to provide an update on the Workplan, problems/solutions, major achievements, or modifications. The Status Report should be brief and include an attached project Workplan indicating the status of Workplan activities: ''completed,'' ''on schedule,'' ''delayed,'' ''cancelled.'' The body of report should provide a summary explanation of any deviation from the Workplan and recommended actions.

Status Reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30 and October 30).

2. Technical Progress Reports

Technical Progress Reports provide information on how the project is progressing in achieving its stated objectives. Technical Progress Reports will be based on the project's stated objectives, indicators, and Performance Monitoring Plan (PMP) and will provide both quantitative and qualitative information and a narrative assessment of performance for the preceding six-month period (January—June and July—December). Data measuring achievement of the project's indicators will be attached to the narrative, which will provide a composite overview of progress, trends, problems, new proposals, lessons learned, and expenditures. The body of the Technical Progress Report should be 2–3 pages in length, stressing major points related to strategy.

Technical Progress Reports are due within 30 days of the end of the reporting period (*i.e.*, by July 30 and January 30).

C. Instructions for Submitting Reports

All reports shall cite the assigned grant number. The Grantee(s) shall submit hard copy of all financial reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Laura Buffo, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

Gene Contee, Financial Management Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5526, Washington, DC 20210.

The Grantee(s) shall submit one hard copy of all technical reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Laura Buffo, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

VI. Travel Procedures

The Grantee(s) shall submit a quarterly travel plan to the GOTR. The plan shall include the following information for all individuals traveling for the Grantee(s) to support activities covered by this grant:

- Name of the person(s) who will be traveling;
- Destination(s);
- Dates of travel;
- Purpose of travel—what they will be doing and why.

The Grantee(s) should submit the quarterly travel plan no later than four weeks prior to the start of each subsequent fiscal quarter (*e.g.*, By May 31, the GOTR should have travel plans for all Grantee travel occurring July 1 through September 30). For a trip beginning later than four weeks from the time the plan is submitted, dates should reflect a ''best guess'' (rather than simply listing ''To Be Determined''). The dates should, however, be finalized no later than 4 weeks prior to departure.

All travelers should submit finalized travel details to the GOTR no later than 4 weeks prior to the desired departure date. If any major holiday occurs during those 4 weeks, travelers should submit finalized details earlier.

Individuals are not permitted to travel until USDOL/ILAB has received country clearance from the State Department (via e-mail or cable) or has received written authorization (including by e-mail) from the GOTR. This also applies to expatriates living abroad who go on personal or home leave: although they do not need clearance to enter the U.S., they do need clearance to re-enter the country in which they are stationed.

While travelers may cancel trips at any time, USDOL/ILAB will not permit any amendments to a clearance cable (*e.g.*, for changes in dates of travel, or changes in the identified traveler) less than four weeks prior to the desired date of departure, except in dire emergencies, as determined by the GOTR.

VII. Acknowledgment of USDOL Funding

A. Acknowledgement on Printed Materials

In all circumstances, the following shall be displayed on printed materials: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate Grant number].''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal funds for the project or program; and

• The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of the USDOL Logo

In consultation with ILAB, the Grantee(s) will acknowledge USDOL's role in one of the following ways:

• The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee written permission to use the logo on the item.

• All documents should include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

VIII. Administrative Requirements

A. General

Grantees, which may include faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, *e.g.*, Non-Profit Organizations—OMB Circular A–122. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

• 29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

• 29 CFR Part 93—New Restrictions on Lobbying.

• 29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

• 29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

• 29 CFR Part 98—Federal Standards for Government wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

• 29 CFR Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

B. Sub-Contracts

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928, and 13021 as amended, the Grantee(s) is strongly encouraged to provide subcontracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

C. Encumbrance of Grant Funds

Grant funds may not be encumbered/obligated by the Grantee(s) before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations may involve only commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/ obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

D. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee must provide and must require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed so as not to unduly delay the work.

IX. Grant Closeout Procedures

A. Definitions

1. Grant Closeout

The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

2. Date of Completion

The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends, whichever comes first.

3. Disallowed Costs

Disallowed costs are those charges to a grant that the grantor agency or its representative determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

B. Close-Out Procedures

Grants shall be closed out in accordance with the following procedures:

• Upon request, the Grantor shall make prompt payments to a Grantee for allowable reimbursable costs under the grant being closed out.

• The Grantee shall immediately refund to the Grantor any balance of unobligated (unencumbered) cash advanced to the Grantee that is not authorized for retention by the Grantee for use on other grants.

• Within 90 days after completion of the grant, the Grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may authorize extensions when requested by the grantee.

• The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.

• In the case of grants that include matching/in-kind contributions, the Grantee is legally required to provide the total amount of matching/in-kind contributions indicated on the face sheet of the agreement, as amended. Failure to provide this level of matching/in-kind contribution shall result in the disallowance of all or part of otherwise allowable Federal share costs, equal to the total matching/in-kind share committed to, less the share actually provided.

• In the event that a final audit has not been performed prior to the closeout of the grant, the Grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

X. Measuring the Performance of the Grantee

The performance of the Grantee will be assessed based on the timely completion of one or more deliverables

that will be due to USDOL at the end of each quarter of the Grant. These deliverables should reflect the outcomes of the project that are expected to help achieve the project's objective(s). Applicants are requested to include in their proposal a project implementation plan and approach to monitor the performance of the project throughout the period of the grant. The implementation plan is to consist of a quarterly schedule of activities and list of deliverables that would be completed by the contractor each quarter. The defined list and schedule of deliverables is viewed by USDOL as a key component of the technical proposal.

XI. Review and Selection of Applications for Award

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A Technical Panel will objectively rate each complete application against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select one or more Grantees on the basis of the initial proposal submission, or the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as panel findings, geographic presence of the applicants, and the best value to the government, cost, and other factors. The Grant Officer's determination for award under this SGA is final.

A. The Review Process

The criteria below will serve as the basis upon which submitted applications will be evaluated. Technical aspects of the application will constitute 100 points of the total evaluation. Up to five (5) additional points will be given for leveraging non-Federal resources.

In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit a project budget that clearly details the costs for performing all of the requirements presented in this solicitation, including producing all deliverables, reporting on implementation and progress, and monitoring progress. Applicants are reminded to budget for compliance with the administrative requirements set forth (copies of all regulations are referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov*). This includes the costs of performing activities such as travel to Washington, DC to meet with USDOL/ILAB, financial audit, project closeout, document preparation (*e.g.*, progress reports, project document), and ensuring compliance with procurement and property standards. The Project Budget should identify administrative costs separately from programmatic costs. In addition to the costs identified previously, administrative costs include indirect costs from the costs pool and the cost of activities, materials (*e.g.*, project car), and personnel (*e.g.*, administrative assistants, office drivers) that support the management and administration of the project but do not provide direct services to project beneficiaries.

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points.

B. Technical Approach—45 Points

- The extent to which the application sets forth a clear and supportable course of action to strengthen the capacity of Colombian trade union leaders to: (a) More effectively support the economic, political and social development of Colombia, (b) promote respect for human and worker rights; and (c) play a positive role in the peace process. The Applicant will be evaluated on the clear identification and description of the specific strategy(s) the Applicant proposes to use, its effectiveness, and attainability of project objectives by the end of the grant period. (10 points)
- Demonstrated familiarity with the major issues related to the components being addressed (*e.g.*, general project context, key problems and/or needs in the relevant country/area, the specific problem(s) and/or need(s) that will be addressed by this project(s), and relevant constraints). The Applicant will be evaluated on the thorough and accurate assessment of the implementing environment and the problems that exist and clear identification of the specific problem(s) the Applicant proposes to address. (5 points)
- A monitoring and evaluation plan for measuring project performance that includes challenging but realistic targets and measurable, verifiable project indicators that measure achievement of project objectives and performance in project implementation. (5 points)
- Submission of a schedule of quarterly deliverables that will serve to determine the level of performance of the contractor. The identification of deliverables that are presented in the proposal should be objective, verifiable, and demonstrate progress in achieving project objectives. (5 points)

C. Institutional Qualifications/Past Performance—25 Points

- Prior experience working with Colombian trade unionists to strengthen their capacity to play a constructive role in the economic, political and social development of Colombia. The application shall include information as an attachment (which will not count towards the page limit) regarding previous grants, contracts, or grants, including (a) the organization for which the work was done, (b) a contact person in that organization with his/her current phone number, (c) the dollar value of the grant, contract, or Grant for the project(s), (d) the time frame and professional effort, either directly by key personnel, by consultants, or under contractual arrangements involved in the project(s), (e) a brief summary of the work performed; and (f) a brief summary of accomplishments. (10 points)
- Prior experience in designing and implementing activities related to training in trade union administration, collective bargaining, industrial dispute prevention and resolution, English as a second language, basic computer literacy, and relocating training candidates for training in the U.S. or a third country. (5 points)
- Clear organizational structure and management plan, illustrating experience with carrying out participatory development activities with organizations (*i.e.*, government ministries, employer organizations, worker organizations, community organizations) and maintaining positive and effective relationships with partners. (5 points)
- Demonstration of strong financial management and internal control systems. (5 points)

D. Experience of Personnel—30 Points

- Key personnel with prior experience directly related to the proposed work, including technical and language qualifications, professional competence, relevant academic background, and demonstrated experience. Applicants shall submit a résumé for each key personnel proposed, which includes the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing

organizations, and educational background. Duties must be clearly defined in terms of role performed (*i.e.*, manager, team leader, consultant). Résumés shall be included as attachments, which do not count against the page limitation. (20 points)

- Clear management plan demonstrating the staffing requirements and other resources needed to implement the approach. (10 points)

E. Leveraging of Grant Funding—5 Points

USDOL will award up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the size and scope of project-related activities. These programs will not be financed by the project, but can complement and enhance project objectives. To be eligible for the additional points, the applicant must list the resource(s), the nature, and possible activities anticipated and any partnerships, linkages, or coordination of activities, cooperative funding, etc.

F. Suggested Outline for Technical Proposal

This outline is provided as a guideline. Organizations may elect a format of their choosing, subject to the requirements of this announcement.

1. Executive Summary
2. Program Description
   - Goal and Objectives
   - Background
   - Technical Approach and Implementation Timetable (Proposed Intervention)
   - Experience of Personnel
   - Identification of Deliverables and Quarterly Schedule of their submission to determine contractor performance
   - Staffing Pattern and Project Management Organizational Chart
   - Leveraging of non-Federal Resources
3. Attachments
   - Summaries of other relevant organizational experiences
   - Résumés of key personnel and signed letters of commitment to the project

This stated commitment will be incorporated into the text of the grant with the selected applicant(s).

Signed at Washington, DC, this 25th day of June 2003.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4150–28–P

APPENDIX A

Standard Government Forms

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application
- ☐ **Construction**
- ☐ **Non-Construction**

Preapplication
- ☐ **Construction**
- ☐ **Non-Construction**

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code):*

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

SURVEY ON ENSURING EQUAL OPPORTUNITY FOR APPLICANTS

Federal Agency Use Only

OMB No. 1225-0083 Exp. 02/28/2006

NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.

Purpose: This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

APPENDIX B

Progress Report Forms

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

STATUS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. WOKRPLAN STATUS

(Attach Workplan indicating status of components – "completed," "on schedule," "delayed," "Cancelled" as an annex.)

[Summarize any Workplan variance and recommended actions]

II. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

III. NEW PROPOSALS (activities, staffing, funding, etc.)

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

TECHNICAL PROGRESS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. OVERALL PROGRESS

[*Attach Data Tracking Table and any reporting against the Performance Monitoring Plan (PMP) as an annex.*]

II. MAJOR TRENDS

III. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

IV. NEW PROPOSALS (activities, staffing, funding, etc.)

V. LESSONS LEARNED

VI. EXPENDITURES VS. BUDGET

Budget Line Item	Total Budget Amt.	For the Reporting Period			Cumulative (over the life of the project)	
		Planned Expenditures	Actual Expenditures	Balance	Total Expenditures	Balance
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$

[FR Doc. 03–16545 Filed 6–30–03; 8:45 am]

BILLING CODE 4150–28–C

DEPARTMENT OF LABOR

Office of the Secretary

Developing a Serbian Labor Inspectorate for the 21st Century

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA 03–17).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations. USDOL will award up to U.S. $500,000 through one or more grants to an organization or organizations to develop and implement a project(s) designed to contribute to the reduction of work-related deaths and injuries in the Republic of Serbia. Partnerships between more than one organization are eligible and encouraged, in particular with qualified, regionally-based organizations in order to build local capacity, although in such a case a lead organization must be identified.

DATES: The closing date for receipt of applications is Friday, August 8, 2003. Applications must be received by 4:45 p.m. (Eastern Time) at the address below.

ADDRESSES: Application forms will not be mailed. They are published as part of this **Federal Register** notice and in the **Federal Register,** which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html.* Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–17, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, e-mail address: *harvey.lisa@dol.gov,* tel: (202) 693–4570 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The expansion of global trade and investment and the improvement of working conditions and protection of basic worker rights are best understood as mutually reinforcing, and not mutually exclusive objectives. In today's environment of widespread market reforms and economic integration, efficient and fair labor markets are a prerequisite for economic growth, increasing living standards, and promoting employment in the U.S. As political developments, market reforms, and the transition to a global economy bring significant changes to national economies, individual labor market systems need to change accordingly to remain viable and to support their populations. In addition, the inability to manage the development of a relatively open market economy during periods of political and social transition impedes the development of political democracy, social cohesion, and equity.

USDOL/ILAB carries out a worldwide International Cooperation Program that helps address some of these difficulties by working to ensure that the greatest possible number of workers benefit from a more open world economy. The three major initiatives of the International Cooperation Program are:

Improving Economic Opportunity and Income Security for Workers (EOIS)—Under the EOIS initiative, USDOL works to strengthen developing countries' abilities to build and institutionalize social safety net policies and programs needed to improve working conditions and foster economic growth. Projects under this initiative aim to increase employment among targeted groups, improve workplace safety and health, and increase access to social insurance.

Protecting the Basic Rights of Workers (PBRW)—Under the PBRW initiative, USDOL works to implement the fundamental principles embodied in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, specifically working towards strengthening the right to freedom of association and collective bargaining, eliminating forced or compulsory labor, and eliminating employment discrimination.

International HIV/AIDS Workplace-based Education Program (IHWEP)—Under the IHWEP initiative, USDOL works to reduce the rate of HIV/AIDS infection through workplace-based prevention and education programs and to improve the workplace environment for workers living with HIV/AIDS. The IHWEP program also works to build the capacity of the tripartite partners to address the long-term impact of HIV/AIDS on labor markets and economic development.

USDOL/ILAB manages its projects in partnership with stakeholders representing the government, employers, workers, and other organizations.

I. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Resolution, 2003, Pub. L. 108–7, 117 Stat. 11 (2003).

II. Application process

A. Eligible Applicants

Any commercial, international, educational, or not-for-profit organization (including faith-based organizations) possessing experience in one or more of the following areas are eligible to apply for this grant:

- The field of worker health and safety;
- Assisting foreign governments to strengthen institutions;
- Facilitating strategic planning;
- Development of training curricula; and
- Delivery of training.

The Labor Ministry is the primary government entity that will be involved, but the project may also include other ministries of government with responsibilities for worker safety and health. Partnerships of more than one organization are also eligible and encouraged, in particular with qualified regionally-based organizations to further build local capacity, although in such a case a lead organization must be identified. The capability of an applicant, partners, and co-applicants to perform necessary aspects of this solicitation will be determined under Section XI—Review and Selection of Applications for Award. All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083) (*see* Appendix A).

Please note that eligible grant applicants must not be classified under the Internal Revenue Code as a 501(c)(4) entity (*see* 26 U.S.C. 501(c)(4)). According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying

activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) blue ink-signed original, complete application in English plus two (2) copies of the application must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, no later than 4:45 p.m. Eastern Time on the established due date. To aid with review of applications, USDOL also encourages applicants to submit three (3) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A (*see* Appendix A). These forms are also available at *http://www.whitehouse.gov/omb/grants*. Part II must contain a technical proposal that demonstrates capabilities in accordance with the statement of work (Section III) and the selection criteria (Section XI).

To be considered responsive to this solicitation the application must consist of the above-mentioned separate sections not to exceed 25 single-sided (8½″ × 11″ or A4), double-spaced, 12-point font, typed pages for which a response is submitted. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.,* with tab dividers), and all pages shall be numbered. Applicants are required to propose that a project address ALL of the project objectives identified in the Statement of Work in Section III. Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated. The application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. Standard forms, attachments, résumés, exhibits, letters of support, and the abstract are not counted towards the page limit. If an applicant exceeds the stated page limit, the review panel has the discretion to deduct 10 points.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified, or it will not be considered. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, *etc.,* will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted.

Any application received at the Office of Procurement Services after 4:45 pm Eastern Time on Friday, August 8, 2003 will not be considered unless it is received before the award is made and:

- It was sent by registered or certified mail no later than the fifth calendar day before [Enter Date]; or
- It was sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee no later than 5 pm at the place of mailing two (2) working days (excluding weekends and Federal holidays), prior to [Enter date]; or
- It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee is the date entered by the Post Office receiving clerk on the ''Express Mail/ Next Day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

All applicants are advised that U.S. mail delivery in the Washington DC area has been slow and erratic due to concerns involving anthrax contamination. Applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service.

D. Funding Levels

Up to U.S. $500,000 is available for this project, and USDOL reserves the right to award more than one grant. USDOL may award one or more grants to one organization or several, or to a partnership of more than one organization. The award of any sub-contract will be subject to USDOL approval (*see* Section IV).

E. Program Duration

The duration of the project funded by this SGA is up to two (2) years. The start date of program activities will be negotiated upon award of the grant, which will take place no later than September 30, 2003.

III. Statement of Work

USDOL is seeking qualified organizations that will implement, in partnership with USDOL, a project to support the reduction of workplace injuries and deaths in Serbia. Specific project objectives are identified in Section III.C. USDOL encourages applicants to be creative in proposing innovative and cost-effective interventions that will produce a demonstrable and sustainable impact.

Proposals should demonstrate organizations' capabilities to implement projects in accordance with the Statement of Work and the rating criteria (Section XI). Funds will be provided by grant to qualifying organizations. The grant will be actively managed by USDOL/ILAB to assure achievement of the stated project objectives. The award of any sub-contract will be subject to USDOL policies and approval (*see* Section IV).

Note: Selection of an organization as a grant recipient does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and

administrative systems in place to support grant implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

A. Background and Problem Statement

Serbia is undertaking sweeping reforms to accelerate its transition toward an open free market. For example, the government recently passed legislation that reduces income taxes to 14 percent. In addition, the government has embarked on a campaign of economic reform aimed at improving prospects for attracting investment and generating jobs. These reforms are intended to assist the government of Serbia in its efforts to become an integrated member of the European economic union.

The Government is reforming labor legislation both to augment its economic reforms and to align itself with European Union (EU) standards. The labor ministry, created in 2000, is receiving support from the World Bank to assist workers who may be adversely affected by the economic changes occurring in Serbia.

In order to further demonstrate its commitment to workers, the Government is also seeking assistance to help strengthen the labor ministry's capacity to reduce workplace injuries and deaths through improved compliance with occupational safety and health laws. New legislation has been drafted that, when adopted, will dramatically expand the responsibility of the Ministry of Labor and Employment (MOLE) to monitor worksite health and safety conditions, with the goal of mitigating work-related injuries and deaths in the country.

The main constraints confronting the Ministry in the area of workplace safety and health are:

- Outdated occupational safety and health (OSH) regulations and practices.
- Poorly trained inspector corps.
- Underutilization of data to focus inspection efforts more strategically.
- Limited campaigns to educate employers and workers about the need for and benefits of improved workplace safety and health.
- Lack of coordination among different government agencies that have some responsibilities related to workplace safety and health.

Legislation has already been prepared that, when passed, will consolidate safety and health inspection authority under the labor inspectorate of the MOLE. The inspectorate plans to almost triple its number of inspectors in order to fully enforce this pending legislation (the MOLE has been authorized to hire 500 additional inspectors, increasing its monitoring force from 268 to 768). The legislation will also require that a reorganized labor inspectorate adopt practices and procedures to ensure that enterprises using new technologies adopt appropriate new safety and health standards. Meeting these needs will require a significant increase in the capacity and the flexibility of the new labor inspectorate and its staff.

B. Target Population

Applicants shall target the MOLE labor inspectorate.

C. Objectives

The Grantee(s) will implement, in partnership with USDOL, a project to help reduce workplace injuries and deaths in Serbia. The reduction of workplace injuries and deaths is expected to occur as the Grantee(s) assists the MOLE in its efforts to improve compliance by Serbian employers with workplace safety and health laws. The Grantee(s) will assist the MOLE through the provision of the following types of assistance:

- Development of a five-year strategic plan to establish goals, objectives, measures of accountability, and an annual timetable and set of activities for implementing the plan.
- Development of a set of procedures and policies to guide OSH inspectors in carrying out their work.
- Training of inspectors in the implementation of new procedures and policies.
- Development of new approaches to utilize existing data more effectively to target low levels of OSH compliance.
- Development of an ongoing outreach campaign to employers and workers in order to prevent injuries and deaths from occurring.

Relationship to USDOL Program Strategy: By helping to improve compliance with OSH laws, the proposed project in Serbia supports achievement of USDOL's GPRA goal (3.3b) to ''Improve living standards and conditions of work for workers in developing and transition countries.''

D. Type of Work To Be Performed/ Activities

The selected Grantee(s) will be responsible for developing a strategy for successfully achieving the stated objectives of the project, addressing the problems identified in the Background and Problem Statement, developing and implementing the major tasks to be accomplished as part of that strategy, tracking and reporting on progress in achieving the stated objectives, and providing any necessary related services.

E. Expected Outcomes/Project Outputs

By the end of the grant period, the project will have:

- Developed a five-year strategic plan to establish goals, objectives, measures of accountability, and an annual timetable and set of activities for implementing the plan.
- Developed a set of procedures and policies to guide OSH inspectors in carrying out their work.
- Trained inspectors in the implementation of new procedures and policies.
- Developed new approaches to utilize existing data more effectively to target low levels of OSH compliance.
- Developed an ongoing outreach campaign to employers and workers in order to prevent injuries and deaths from occurring.

F. Deliverables

Following the award of the grant, the Grantee(s) shall collaborate with USDOL/ILAB to:

- Develop a Project Document (including a project budget) that will set the technical parameters and provide guidance to the project. It should include all information and be prepared according to the standardized format outlined by USDOL. While the Applicant's original proposal will serve as the basis of the Project Document, in every case USDOL has found it advantageous to visit the field and reach consensus on the project strategy with host country counterparts in order to further inform the project design. USDOL must receive a draft of the Project Document 45 days after returning from travel to the relevant area(s). The Project Document must be finalized no later than 30 days after receipt of USDOL comments on the draft.
- Establish a Workplan identifying major project activities, deadlines for their completion, and person(s) responsible for completing these activities (within 60 days after the Project Document is finalized).
- Set project indicators, including indicators that support ILAB's Government Performance and Results Act (GPRA) goal, ''Improve living standards and conditions of work for workers in developing and transition countries.'' (within 90 days of finalizing the Project Document).
- Create a Performance Monitoring Plan (PMP) to establish the data needed

to measure achievement of project indicators and the methods for collection and reporting. It should include all information and be prepared according to the standardized format outlined by USDOL (within 90 days of finalizing the Project Document).

The Grantee(s) must submit copies of all required documents to USDOL by the specified due dates. Other documents that may be produced are to be submitted by mutually agreed-upon deadlines. The Project Document, Workplan, project indicators, PMP, and data collection system are subject to final approval by the Grant Officer's Technical Representative (GOTR) responsible for monitoring the grant.

G. Special Program Requirements

1. USDOL Responsibilities

Following the award of the grant(s), USDOL shall:

- Provide the Grantee(s) with programmatic support to help ensure effective implementation of the project, including training and consultation in USDOL/ILAB management, monitoring, and evaluation systems and standard operating procedures.
- Provide advice and consultation to Grantee(s) on specific program criteria.
- If, based upon the responses to this solicitation and subsequent to the award, USDOL determines that it is necessary, travel to the field with the Grantee(s) and other technical experts for a project design mission before finalizing the project design and the Project Document. USDOL will procure the services of technical experts if it determines that such expertise is necessary for the project design mission.
- Fund at least two project evaluations—a mid-term evaluation at approximately the midpoint of the grant period and a final evaluation approximately two months prior to the end of the grant period. USDOL/ILAB—in consultation with the Grantee(s)—will be responsible for drafting and finalizing all evaluation Terms of Reference (TOR), procuring the services of an independent evaluator (who will write the evaluation report), and providing at least one representative from USDOL/ILAB to participate on the evaluation team, when appropriate. USDOL/ILAB may choose to perform additional evaluations as appropriate.
- Have the right, at all reasonable times, to review all documents pertaining to the project, participate on field missions (including monitoring and evaluation missions), and to discuss administrative and technical issues pertaining to the project with the Grantee.

2. Grantee Responsibilities

Following the award of the grant(s), the Grantee(s) shall:

- Establish the institutional and management systems and means necessary to provide and monitor the delivery of services and distribute wages and material effectively.
- If USDOL determines that it is necessary, travel to the field with USDOL and other technical experts for a project design mission before finalizing the project design and the Project Document. The Grantee(s) shall bear the financial costs for having its representative(s) participate on the project design mission.
- Assist in project evaluations, including reviewing and providing comments on the evaluation Terms of Reference (TORs) drafted by USDOL and evaluation reports written by the lead evaluator. If invited to participate on an evaluation mission by USDOL, the Grantee(s) shall bear the financial costs for having a representative of the Grantee(s) participate on an evaluation team (*e.g.*, travel, *per diem*).
- Submit trip reports to USDOL within fourteen (14) calendar days of project-related travel. If the implementing partner travels with a USDOL staff member, the implementing organization will submit a draft trip report to the staff member within fourteen (14) calendar days of project-related travel for comments. The format for the trip report will be provided by USDOL.
- Inform USDOL/ILAB at least one (1) month prior to scheduling any major public events or ceremonies regarding the project.
- Submit to USDOL all media-related and educational materials developed by it or its sub-contractors under this Grant(s), including relevant press releases, for use in this project before they are reproduced, published, or used. The Grantee(s) must consult with USDOL to ensure that materials are compatible with USDOL materials relating to its International Cooperation Program. USDOL considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the project to be educational materials. USDOL will review materials for technical accuracy. USDOL will also review training curricula and purchased training materials for accuracy before they are used. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant. All materials produced by Grantee(s) must be provided to USDOL in digital format for possible publication on the Internet by USDOL.

IV. Key Personnel and Sub-Contractors

The Grant Officer must approve candidates for all key personnel positions. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all key personnel positions. The Grantee(s) shall submit résumés, *curricula vitae*, and other relevant information to the GOTR and receive approval from the Grant Officer before extending an offer of employment and before the nominated individual conducts any activities.

Key personnel may only be changed with the approval of the Grant Officer. The Grantee(s) shall not substitute or replace key personnel unless new personnel are at least equal in qualifications to those personnel who are replaced. If a need to find new key personnel arises, the Grantee(s) shall notify the GOTR as soon as the need becomes known. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

Organizations may apply for funding in partnership with other organizations, but in such a case, a lead organization must be identified. Use of sub-contractors is subject to Federal laws and regulations, including OMB circulars requiring free and open competition for procurement transactions.

The Grant Officer must approve all sub-contractors. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all sub-contractors. The lead organization shall submit a list of previous projects implemented by the proposed sub-contractor, along with a description of qualifications, résumés, curricula vitae, and other relevant information to the GOTR and receive approval from the Grant Officer before extending a sub-contract. The lead organization shall not substitute or replace sub-contractors unless new sub-contractors are at least equal in qualifications to those that are replaced. Sub-contractors may only be changed with the approval of the Grant Officer. If a need to find new sub-contractors arises, the lead organization shall notify the GOTR as soon as the need becomes known.

Note: Except as specifically provided, USDOL/ILAB acceptance of a proposal and

an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, if an application identifies a specific sub-contractor to provide the services, the USDOL/ILAB award does not provide the justification or basis to sole-source the procurement, *i.e.*, to avoid competition.

V. Reporting Requirements

All reports (see Appendix B) are due no later than 30 days after the end of a fiscal quarter and shall be submitted in English. USDOL/ILAB and the Grantee(s) should work together to resolve any issues within 30 days of receipt of a report.

A. Financial Reports

The Grantee(s) shall submit financial reports on a quarterly basis. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the grant was signed.

The Grantee(s) shall use Standard Form (SF) 269A, *Financial Status Report,* to report the status of the funds, at the project level, during the grant period. A final SF269A shall be submitted no later than 90 days following completion of the grant period.

If the Grantee(s) uses the U.S. Department of Health and Human Services Payment Management System (HHS PMS), they shall also send USDOL copies of the PSC 272 that it submits to HHS, on the same schedule. Otherwise, the Grantee(s) shall submit Standard Form (SF) 272, *Federal Cash Transactions Report,* on the same schedule as the SF269A.

Financial reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30, July 30, October 30, and January 30).

B. Technical Reporting Requirements

After signing the agreement, the Grantee(s) shall submit progress reports to USDOL/ILAB at the end of each fiscal quarter. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the Grant was signed. Between reporting dates, the Grantee(s) shall also immediately inform USDOL/ILAB of significant developments and/or problems affecting the organization's ability to accomplish work.

The Grantee(s) shall submit two types of progress reports according to the standardized format used by USDOL/ILAB:

1. Status Reports

Status Reports compare actual and planned activities during the reporting period, which consists of one quarter (January–March and July–September). Its purpose is to provide an update on the Workplan, problems/solutions, major achievements, or modifications. The Status Report should be brief and include an attached project Workplan indicating the status of Workplan activities: ''completed,'' ''on schedule,'' ''delayed,'' ''cancelled.'' The body of report should provide a summary explanation of any deviation from the Workplan and recommended actions.

Status Reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30 and October 30).

2. Technical Progress Reports

Technical Progress Reports provide information on how the project is progressing in achieving its stated objectives. Technical Progress Reports will be based on the project's stated objectives, indicators, and Performance Monitoring Plan (PMP) and will provide both quantitative and qualitative information and a narrative assessment of performance for the preceding six-month period (January—June and July—December). Data measuring achievement of the project's indicators will be attached to the narrative, which will provide a composite overview of progress, trends, problems, new proposals, lessons learned, and expenditures. The body of the Technical Progress Report should be 2–3 pages in length, stressing major points related to strategy.

Technical Progress Reports are due within 30 days of the end of the reporting period (*i.e.*, by July 30 and January 30).

C. Instructions for Submitting Reports

All reports shall cite the assigned grant number. The Grantee(s) shall submit one hard copy of all financial reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Jim Rude, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

Gene Contee, Accountant, Financial Management Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5526, Washington, DC 20210.

The Grantee(s) shall submit one hard copy of all technical reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Jim Rude, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

VI. Travel Procedures

The Grantee(s) shall submit a quarterly travel plan to the GOTR. The plan shall include the following information for all individuals traveling for the Grantee(s) to support activities covered by this grant:

- Name of the person(s) who will be traveling;
- Destination(s);
- Dates of travel;
- Purpose of travel—what they will be doing and why.

The Grantee(s) should submit the quarterly travel plan no later than four weeks prior to the start of each subsequent fiscal quarter (*e.g.*, By May 31, the GOTR should have travel plans for all Grantee travel occurring July 1 through September 30). For a trip beginning later than four weeks from the time the plan is submitted, dates should reflect a ''best guess'' (rather than simply listing ''To Be Determined''). The dates should, however, be finalized no later than 4 weeks prior to departure.

All travelers should submit finalized travel details to the GOTR no later than 4 weeks prior to the desired departure date. If any major holiday occurs during those 4 weeks, travelers should submit finalized details earlier.

Individuals are not permitted to travel until USDOL/ILAB has received country clearance from the State Department (via e-mail or cable) or has received written authorization (including by e-mail) from the GOTR. This also applies to expatriates living abroad who go on personal or home leave: Although they do not need clearance to enter the U.S., they do need clearance to re-enter the country in which they are stationed.

While travelers may cancel trips at any time, USDOL/ILAB will not permit any amendments to a clearance cable (*e.g.*, for changes in dates of travel, or changes in the identified traveler) less than four weeks prior to the desired date of departure, except in dire emergencies, as determined by the GOTR.

VII. Acknowledgment of USDOL Funding

A. Acknowledgement on Printed Materials

In all circumstances, the following shall be displayed on printed materials: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate Grant number].''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal funds for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of the USDOL Logo

In consultation with ILAB, the Grantee(s) will acknowledge USDOL's role in one of the following ways:

- The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee written permission to use the logo on the item.
- All documents should include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

VIII. Administrative Requirements

A. General

Grantees, which may include faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, *e.g.*, Non-Profit Organizations—OMB Circular A–122. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR part 93—New Restrictions on Lobbying.
- 29 CFR part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.
- 29 CFR part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.
- 29 CFR part 98—Federal Standards for Government wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).
- 29 CRF part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

B. Sub-contracts

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928, and 13021 as amended, the Grantee(s) is strongly encouraged to provide subcontracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

C. Encumbrance of Grant Funds

Grant funds may not be encumbered/obligated by the Grantee(s) before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations may involve only commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/ obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

D. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee must provide and must require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed so as not to unduly delay the work.

IX. Grant Closeout Procedures

A. Definitions

1. Grant closeout

The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

2. Date of completion

The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends, whichever comes first.

3. Disallowed costs

Disallowed costs are those charges to a grant that the grantor agency or its representative determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

B. Close-out Procedures

Grants shall be closed out in accordance with the following procedures:

- Upon request, the Grantor shall make prompt payments to a Grantee for allowable reimbursable costs under the grant being closed out.
- The Grantee shall immediately refund to the Grantor any balance of unobligated (unencumbered) cash advanced to the Grantee that is not authorized for retention by the Grantee for use on other grants.
- Within 90 days after completion of the grant, the Grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may authorize extensions when requested by the grantee.
- The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.
- In the case of grants that include matching/in-kind contributions, the

Grantee is legally required to provide the total amount of matching/in-kind contributions indicated on the face sheet of the agreement, as amended. Failure to provide this level of matching/in-kind contribution shall result in the disallowance of all or part of otherwise allowable Federal share costs, equal to the total matching/in-kind share committed to, less the share actually provided.

- The Grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of 29 CFR part 95.
- In the event that a final audit has not been performed prior to the closeout of the grant, the Grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

X. Measuring the Performance of the Grantee

The performance of the Grantee will be assessed based on the timely completion of one or more deliverables that will be due to USDOL at the end of each quarter of the Grant. These deliverables should reflect the outcomes of the project that are expected to help achieve the project's objective(s). Applicants are requested to include in their proposal a project implementation plan and approach to monitor the performance of the project throughout the period of the grant. The implementation plan is to consist of a quarterly schedule of activities and list of deliverables that would be completed by the contractor each quarter. The defined list and schedule of deliverables is viewed by USDOL as a key component of the technical proposal.

XI. Review and Selection of Applications for Award

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A Technical Panel will objectively rate each complete application against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select one or more Grantees on the basis of the initial proposal submission, or the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as panel findings, geographic presence of the applicants, and the best value to the government, cost, and other factors. The Grant Officer's determination for award under this SGA is final.

A. The Review Process

The criteria below will serve as the basis upon which submitted applications will be evaluated. Technical aspects of the application will constitute 100 points of the total evaluation. Up to five (5) additional points will be given for leveraging non-Federal resources.

In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit a project budget that clearly details the costs for performing all of the requirements presented in this solicitation, including producing all deliverables, reporting on implementation and progress, and monitoring progress. Applicants are reminded to budget for compliance with the administrative requirements set forth (copies of all regulations are referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov*). This includes the costs of performing activities such as travel to Washington, DC to meet with USDOL/ILAB, financial audit, project closeout, document preparation (*e.g.*, progress reports, project document), and ensuring compliance with procurement and property standards. The Project Budget should identify administrative costs separately from programmatic costs. In addition to the costs identified previously, administrative costs include indirect costs from the costs pool and the cost of activities, materials (*e.g.*, project car), and personnel (*e.g.*, administrative assistants, office drivers) that support the management and administration of the project but do not provide direct services to project beneficiaries.

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points.

B. Technical Approach—45 points

- The extent to which the application sets forth a clear and supportable course of action to achieve increased compliance with occupational safety and health laws in Serbia through enhanced strategies for outreach, education and enforcement, introduction and application of more effective policies and procedures to carry out workplace inspections, and increased accountability of Ministry of labor staff for meeting labor law compliance targets. The Applicant will be evaluated on the clear identification and description of the specific strategy(s) the Applicant proposes to use, its effectiveness, and attainability of project objectives by the end of the grant period. (10 points)
- Demonstrated familiarity with the major issues related to the components being addressed (*e.g.*, general project context, key problems and/or needs in the relevant country/area, the specific problem(s) and/or need(s) that will be addressed by this project(s), and relevant constraints). The Applicant will be evaluated on the thorough and accurate assessment of the implementing environment and the problems that exist and clear identification of the specific problem(s) the Applicant proposes to address. (5 points)
- A monitoring and evaluation plan for measuring project performance that includes challenging but realistic targets and measurable, verifiable project indicators that measure achievement of project objectives and performance in project implementation. (5 points)
- A description of the applicant's approach to expending funds in the most cost-effective method possible in order to achieve the project objectives. The applicant should refer to its submitted budget in explaining how the budgeted funds will be utilized cost-effectively. In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit, at minimum, supporting budget information indicating how the Applicant arrived at estimating the costs of the following items/activities: Salaries and benefits for all key personnel, 2–3 key activities proposed by the Applicant under its project design, and closing the project and meeting all USDOL close-out requirements, as stated in this SGA. The Applicant will be evaluated based on the clear identification of all project costs and efficient and effective allocation of funding. The project budget should clearly demonstrate that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by the Applicant in its proposal, management of the project, monitoring and evaluation, and project close-out and that the distribution of funds maximizes the provision of goods and/or services to project beneficiaries. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply

with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation. (10 points)

• Use of existing expertise from the recipient country in order to reduce costs and further develop local capacity. (5 points)

• Inclusion of a sustainability strategy that ensures that project improvements will continue after the project ends. (5 points)

• Submission of a schedule of quarterly deliverables that will serve to determine the level of performance of the contractor. The identification of deliverables that are presented in the proposal should be objective, verifiable, and demonstrate progress in achieving project objectives. (5 points)

C. Institutional Qualifications/Past Performance—25 Points

• Prior experience in designing and implementing activities in developing countries, especially in Serbia, related to strategic planning, outreach and education, enforcement of workplace safety and health laws, and institution building. The application shall include information as an attachment (which will not count towards the page limit) regarding previous grants, contracts, or grants, including (a) the organization for which the work was done, (b) a contact person in that organization with his/her current phone number, (c) the dollar value of the grant, contract, or Grant for the project(s), (d) the time frame and professional effort, either directly by key personnel, by consultants, or under contractual arrangements involved in the project(s), (e) a brief summary of the work performed; and (f) a brief summary of accomplishments. (10 points)

• Clear organizational structure and management plan, illustrating experience with carrying out participatory development activities with organizations (*i.e.*, government ministries, employer organizations, worker organizations, community organizations) and maintaining positive and effective relationships with partners. (10 points)

• Demonstration of strong financial management and internal control systems. (5 points)

D. Experience of Personnel—30 Points

• Key personnel with prior experience directly related to the proposed work, including technical and language qualifications, professional competence, relevant academic background, and demonstrated experience. Applicants shall submit a résumé for each key personnel proposed, which includes the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed (*i.e.*, manager, team leader, consultant). Résumés shall be included as attachments, which do not count against the page limitation. (20 points)

• Clear management plan demonstrating the staffing requirements and other resources needed to implement the approach. (10 points)

E. Leveraging of Grant Funding—5 Points

USDOL will award up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the size and scope of project-related activities. These programs will not be financed by the project, but can complement and enhance project objectives. To be eligible for the additional points, the applicant must list the resource(s), the nature, and possible activities anticipated and any partnerships, linkages, or coordination of activities, cooperative funding, *etc.*

F. Suggested Outline for Technical Proposal

This outline is provided as a guideline. Organizations may elect a format of their choosing, subject to the requirements of this announcement.

1. Executive Summary
2. Program Description
   - Goal and Objectives
   - Background
   - Technical Approach and Implementation Timetable (Proposed Intervention)
   - Experience of Personnel
   - Identification of Deliverables and Quarterly Schedule of their submission to determine contractor performance
   - Staffing Pattern and Project Management Organizational Chart
   - Leveraging of non-Federal Resources
3. Attachments
   - Summaries of other relevant organizational experiences
   - Résumés of key personnel and signed letters of commitment to the project

This stated commitment will be incorporated into the text of the grant with the selected applicant(s).

Signed at Washington, DC, June 25, 2003.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–28–P

APPENDIX A

Standard Government Forms

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application
- ☐ **Construction**
- ☐ **Non-Construction**

Preapplication
- ☐ **Construction**
- ☐ **Non-Construction**

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code):*

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

Previous Edition Usable

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

SURVEY ON ENSURING EQUAL OPPORTUNITY FOR APPLICANTS

Federal Agency Use Only

OMB No. 1225-0083 Exp. 02/28/2006

NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.

Purpose: This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

APPENDIX B

Progress Report Forms

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

STATUS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. WOKRPLAN STATUS

(Attach Workplan indicating status of components – "completed," "on schedule," "delayed," "Cancelled" as an annex.)

[Summarize any Workplan variance and recommended actions]

II. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

III. NEW PROPOSALS (activities, staffing, funding, etc.)

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

TECHNICAL PROGRESS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. OVERALL PROGRESS

[*Attach Data Tracking Table and any reporting against the Performance Monitoring Plan (PMP) as an annex.*]

II. MAJOR TRENDS

III. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

IV. NEW PROPOSALS (activities, staffing, funding, etc.)

V. LESSONS LEARNED

VI. EXPENDITURES VS. BUDGET

Budget Line Item	Total Budget Amt.	For the Reporting Period			Cumulative (over the life of the project)	
		Planned Expenditures	Actual Expenditures	Balance	Total Expenditures	Balance
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$

[FR Doc. 03–16546 Filed 6–30–03; 8:45 am]

BILLING CODE 4510–28–C

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–1099 (2003)]

Standard on Walking-Working Surfaces; Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

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

ACTION: Request for comment.

SUMMARY: OSHA requests comment concerning its proposed extension of the information-collection requirements specified by its Standard on Walking-Working Surfaces (29 CFR part 1910, subpart D). This Standard applies to all permanent places of employment, except where domestic, mining, or agricultural work only is performed.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by September 2, 2003.

Facsimile and electronic transmission: Your comments must be received by September 2, 2003.

ADDRESSES:

I. Submission of Comments

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachment to the OSHA Docket Office, Docket No. ICR 1218–0199 (2003), Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number, ICR 1218–0199 (2003), in your comments.

Electronic: You may submit comments, but not attachments, through the Internet at *http://ecomments.osha.gov/*.

You may submit comments in response to this document by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA webpage. Please note you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

II. Obtaining Copies of the Supporting Statement for the Information Collection Request

The Supporting Statement for the Information Collection Request is available for downloading from OSHA's Web site at *www.osha.gov*. The supporting statement is available for inspection and copying in the OSHA Docket Office, at the address listed above. A printed copy of the supporting statement can be obtained by contacting Theda Kenney at (202) 693–2222.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimized, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The collections of information contained in the Walking-Working Surfaces standard are necessary to protect workers from the collapse of overloaded floors and the failure of defective portable metal ladders.

Paragraph 1910.22(d)(1) requires that load limits approved by the building official be marked on plates supplied and securely affixed by the owner of the building, or his duly authorized agent, in a conspicuous place in each space to which they relate. The plates are not to be removed or defaced but, if lost, removed, or defaced, they shall be replaced by the owner or his agent.

Under paragraph 1910.26(c)(2)(vii), ladders having defects are to be marked and taken out of service until repaired by either the maintenance department or the manufacturer.

Paragraph 1910.28(e)(3) requires that outrigger scaffolds designed by a registered professional engineer be constructed and erected in accordance with table D–16 of this section. A copy of the detailed drawings and specifications showing the sizes and spacing of members shall be kept on the job.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

In addition, the Agency specifically requests information on the number of portable metal ladders that become defective in one year. Also, the Agency is interested in knowing whether outrigger scaffolds are used in general industry.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-information requirements specified by the Standard on Walking-Working Surfaces (29 CFR part 1910, subpart D). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently-approved collection-information requirement.

Title: Walking-Working Surfaces (29 CFR part 1910, subpart D).

OMB Number: 1218–0199.

Affected Public: Business or other for-profit, not-for-profit institutions; State, Local or Tribal Government; Federal Government.

Number of Respondents: 10,000.

Frequency of Recordkeeping: On occasion.

Average Time per Response: Varies from one minute (.02 hour) to three minutes (.05 hour).

Total Annual Hours Requested: 13,832.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on June 25th, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–16515 Filed 6–30–03; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the Federal Advisory Council on Occupational Safety and Health (FACOSH), established under Section 1–5 of Executive Order 12196 on February 6, 1980, published in the **Federal Register**, February 27, 1980 (45 FR 1279). FACOSH will meet on July 17, 2003, starting at 1:30 p.m., in Room N–3437 A/B/C of the Department of Labor's Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. The meeting will adjourn at approximately 4 p.m., and will be open to the public. All persons wishing to attend this meeting must exhibit photo identification to security personnel.

Agenda items will include:

1. Call to Order
2. Updates on
   a. Federal Executive Initiative
   b. Federal Recordkeeping Change
   c. SHARE Initiative
   d. Federal Safety and Health Council Awards Ceremony and Training Conference
   e. Young Worker Safety and Health Meeting
3. Emergency Response Coordination Development
4. New business
5. Adjournment

Written data, views, or comments may be submitted, preferably with 20 copies, to the Office of Federal Agency Programs at the address provided below. All such submissions, received by July 10, 2003, will be provided to the Federal Advisory Council members and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify the Office of Federal Agency Programs by the close of business July 10, 2003. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Persons who request the opportunity to address the Federal Advisory Council may be allowed to speak, as time permits, at the discretion of the Chairperson. Individuals with disabilities who wish to attend the meeting should contact Tom Marple at the address indicated below, if special accommodations are needed.

For additional information, please contact Thomas K. Marple, Director, Office of Federal Agency Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 693–2122. An official record of the meeting will be available for public inspection at the Office of Federal Agency Programs.

Signed at Washington, DC, this 25th day of June 2003.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 03–16547 Filed 6–30–03; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–078)]

NASA Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces a meeting of the NASA Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee (SSUAS).

DATES: Monday, July 28, 2003, 8 a.m. to 5 p.m., and Tuesday, July 29, 2003, 8 a.m. to 5 p.m., and July 30, 2003, 8 a.m. to 12 noon.

ADDRESS: Brook Lodge Hotel and Conference Center, 6535 N. 42nd Street, Augusta, MI 49012.

FOR FURTHER INFORMATION CONTACT: Dr. Neal Pellis, Code U, National Aeronautics and Space Administration, Houston, TX 77058, (281) 483–8388.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested.

The agenda for the meeting will include the following topics:

- ISS Program Status/Plans.
- Research Integrated Plans.
- OBPR Report.
- NASA Strategic Plan and the ISS.
- ISS Program Scientist Report.
- Payloads Office Report.
- Integrated Hardware availability on the ISS.
- Science Officer Report " Expedition 6.
- Payload Training Schedule.
- Research and Operations Report on Increment 7.
- Telecon with Investigators.
- Rosaviakosmos Report.
- European Space Agency Report.
- NASDA/GOJ Report.
- CSA Report.
- IFSUSS Discussion.
- ISS Milestones to Support Space Architect's Plans.
- Re-invention and the Science Risk.
- ISS Research Institute and the ISS Research.
- CAM and its Contents.
- Attached Payloads Program.
- The IRB Process.
- Visiting Cargo Vehicles " Progress.
- Executive Development of Recommendations.
- Executive SSUAS/IFSUSS and Code U Retreat.
- SSUAS/IFSUSS Recommendations to BPRAC.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–16565 Filed 6–30–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before July 31, 2003 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number (301) 837–1694 or fax number (301) 837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on January 16, 2003 (68 FR 2367 and 2368). We received comments from seven members of the public. Following is a summary of the comments and a discussion of the changes that we made to the proposed information collection.

Characterization of the Individuals Listed

Some members from the public expressed concern about the use of the word ''professional'' to characterize persons on the listing. We have replaced the term ''professional researcher'' with ''independent researcher'' on the application form, the listing, and related Web pages to more accurately describe the researchers' status. The application form, listing, and related Web pages also clearly state that inclusion on the listing may not be viewed or advertised as an endorsement by NARA. In addition, we have added a disclaimer to the related Web pages that makes clearer that neither the independent researcher's level of expertise nor his or her fee schedule are eligibility factors for inclusion on the listing.

Scope of the Listing

Several members of the public expressed concerns that the proposed collection did not make clear that this listing is limited to individuals available to do research in person at NARA facilities. On the application form, item 1 of the conditions for inclusion on the listing provides that stipulation, as does each of the related Web pages.

Extent of the Information About Each Independent Researcher

Several members of the public recommended the inclusion of more information about the independent researcher's level of expertise, skills, and research specialties (*e.g.*, listing motion pictures as a separate audiovisual type) in the listing. The listing has been modified to include motion pictures as a separate audiovisual type and organized to more closely correlate with similar information elsewhere on our Web site. The information collection, however, is intended to gather only the amount of information necessary to provide a link between our customers who are unable to visit our facilities and independent researchers who may potentially be able to help them. Information that demonstrates the degree of experience and special skills claimed by an independent researcher is more appropriately disseminated by that individual, through—for example—that individual's Web site (which may be linked from our listing at the discretion of the independent researcher).

Requirements for Retention of Researchers on the Listing

A few members of the public requested clarification of the conditions and procedures for remaining on the listing. These issues included the process for updating information on the listing and the penalties for inappropriate use of NARA facilities by independent researchers. Paragraphs 5 and 6 of the conditions on the application form for inclusion on the independent researcher listing have been amended to provide more detail about the process for updating information on the listing and the consequences of independent researchers' violation of NARA regulations of use of our facilities.

Dissemination of the Listing

A few members of the public requested clarification of the status of existing unofficial listings and two separate official special media reproduction services vendors lists. Distribution of the new independent researchers listing will render all previous unofficial listings obsolete and unusable. We will continue to disseminate the special media reproduction services vendors listings, which provide information about a number of private vendors who supply digital, photographic, and oversize electrostatic reproductions of still pictures, maps, plans, drawings, and aerial photographs; and copies of film and broadcast quality videotapes in our holdings. Individuals on those two listings who also offer independent research services will be free to participate in the proposed independent researchers listing.

NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Independent Researcher Listing Application Form.

OMB number: 3095–NEW.

Agency form number: NA Form 14115.

Type of review: Regular.

Affected public: Business or for-profit, nonprofit organizations and institutions, federal, state and local government agencies, and individuals or households.

Estimated number of respondents: 100.

Estimated time per response: 9 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 15 hours.

Abstract: NARA is not authorized or funded to undertake in-depth research into the records within our holdings. Some customers, however, are not able to undertake such research themselves due to a variety of reasons, including geographic distance from our facilities, lack of time, and financial constraints. In the past, NARA has provided these individuals, on request, information about independent researchers who had advised us, on their own initiative, that they were interested in performing freelance research for hire at our facilities. Following a recent review of this process, however, NARA concluded that the information was neither collected, maintained, nor disseminated in the most efficient and effective manner. To better serve all customers, NARA created NA Form 14115,

Independent Researcher Listing Application Form. The new form will help us to improve our program efficiency and effectiveness, as mandated by the Government Performance and Results Act, and enhance service to our customers.

Dated: June 24, 2003.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 03–16510 Filed 6–30–03; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Subcommittee on S&E Indicators; Sunshine Act Meeting

DATE AND TIME: July 3, 2003, 2 p.m.–3:30 p.m., Open Session.

PLACE: The National Science Foundation, 4201 Wilson Boulevard, Room 110, Arlington, VA 22230, *http://www.nsf.gov/nsb.*

STATUS: This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: NSB Office, (703) 292–7000.

MATTERS TO BE CONSIDERED:

Thursday, July 3, 2003

Open Session (2 p.m. to 3:30 p.m.)

Discussion of S&E Indicators, 2004 Chapter 2, Higher Education in S&E.

Cathy Hines,

Executive Secretary.

[FR Doc. 03–16810 Filed 6–27–03; 4:01 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR part 110, Export and Import of Nuclear Equipment and Material.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* On occasion.

5. *Who is required or asked to report:* Any person in the U.S. who wishes to export: (a) Nuclear equipment and material subject to the requirements of a specific license, (b) radioactive waste subject to the requirements of a specific license, and (c) incidental radioactive material that is a contaminant of shipments of more than 100 kilograms of non-waste material using existing NRC general licenses.

6. *An estimate of the number of annual responses:* 254.

7. *The estimated number of annual respondents:* 144.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 316 hours (Reporting—143 hours and Recordkeeping—173 hours).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR part 110 provides application, reporting, and recordkeeping requirements for export and imports of nuclear material and equipment subject to the requirements of a specific license or a general license and exports of incidental radioactive material. The information collected and maintained pursuant to 10 CFR part 110 enables the NRC to authorize only imports and exports which are not inimical to U.S. common defense and security and which meet applicable statutory, regulatory, and policy requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: (*http://www.nrc.gov/public-involve/doc-comment/omb/index.html*). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by July 31, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon P. Allen, Office of Information and Regulatory Affairs (3150–0036), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 24th day of June 2003.

For the Nuclear Regulatory Commission

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–16535 Filed 6–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR part 40, Domestic Licensing of Source Material; and NRC Form 484, Detection Monitoring Data Report; and NRC Form 244, Registration Certificate—Use of Depleted Uranium under General License.

3. The form number if applicable: NRC Form 484 and NRC Form 244.

4. How often the collection is required: Reports required under 10 CFR part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 484 is submitted biannually to report ground-water data necessary to

implement EPA ground-water standards.

NRC Form 244 is submitted when depleted uranium is received or transferred under general license.

5. Who will be required or asked to report:

10 CFR part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

NRC Form 484: Uranium recovery facility licensees reporting ground-water monitoring data pursuant to 10 CFR 40.64.

NRC Form 244: Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).

6. An estimate of the number of annual responses:

10 CFR part 40: 869 responses (386 for NRC licensees and 483 for Agreement State licensees).

NRC Form 484: Included in 10 CFR part 40 above.

NRC Form 244: 60 responses (20 for NRC licensees and 40 for Agreement State licensees).

7. The estimated number of annual respondents:

10 CFR part 40: 271 licensees (99 for NRC licensees and 172 for Agreement State licensees).

NRC Form 484: Included in 10 CFR part 40 above.

NRC Form 244: 60 licensees (20 for NRC licensees and 40 for Agreement State licensees).

8. An estimate of the total number of hours needed annually to complete the requirement or request:

10 CFR part 40: 59,367 total hours (21,886 for NRC Licensees (16,182 hours for reporting and 5,704 hours for recordkeeping) and (37,481 for Agreement State Licensees (28,083 hours for reporting and 9,398 hours for recordkeeping).

NRC Form 484: Included in 10 CFR part 40 above.

NRC Form 244: 60 hours (20 hours for NRC licensees and 40 hours for Agreement State licensees) for reporting requirements.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: N/A.

10. Abstract: 10 CFR part 40 establishes requirements for licenses for the receipt, possession, use and transfer of radioactive source and byproduct material. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR part 40 for uranium recovery licensees. NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by 10 CFR part 40. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC Worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 31, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0020 and 3150–0031), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 25th day of June, 2003.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–16537 Filed 6–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of STP Nuclear Operating Company (the licensee) to withdraw its May 23, 2002, application for proposed amendments to Facility Operating License No. NPF–76 and Facility Operating License No. NPF–80 for the South Texas Project (STP), Units 1 and 2, respectively. STP, Units 1 and 2 are located in Matagorda County, Texas.

The proposed amendments would have revised the facility Technical Specifications 3.7.1.5 and 3.7.1.7 to extend the allowable outage times (AOTs) for main steam line isolation valves, extend the AOT for the main feedwater isolation valves, and allow more than one main feedwater isolation valves to be inoperable.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 25, 2002 (67 FR 42831). However, by letter dated June 17, 2003, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 23, 2002, and the licensee's letter dated June 17, 2003, which withdrew the application for license amendments. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 24th day of June 2003.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–16536 Filed 6–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–06552]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of a License Amendment of U.S. Nuclear Regulatory Commission Byproduct Material License No. 45–03302–01 Merck & Company, Inc.

I. Summary

The U. S. Nuclear Regulatory Commission (NRC) is considering

terminating Byproduct Material License No. 45–03302–01 to authorize the release of the licensee's facility in Elkton, Virginia for unrestricted use and has prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in support of this action.

The NRC has reviewed the results of the final survey of the Merck & Company facility in Elkton, Virginia, and will perform a confirmatory survey prior to termination of the license. Merck & Company was authorized by the NRC from January 10, 1958 until the present to use radioactive materials for research and development purposes at the site. In 2002, Merck & Company ceased operations with licensed materials at the Elkton, Virginia site, and requested that the NRC terminate the license. Merck & Company has conducted surveys of the facility and determined that the facility meets the license termination criteria in subpart E of 10 CFR part 20. The NRC staff has evaluated Merck & Company's request and the results of the surveys, and has developed an EA in accordance with the requirements of 10 CFR part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact on human health and the environment for the proposed licensing action.

II. Environmental Assessment

Introduction

Merck & Company has requested release for unrestricted use their building located at 2778 South Eastside Highway in Elkton, Virginia as authorized for use by NRC License No. 45–03302–01. License No. 45–03302–01 was issued on January 10, 1958, and amended periodically since that time. NRC-licensed activities performed at the Elkton, Virginia site were limited to laboratory procedures typically performed on bench tops and in hoods. No outdoor areas were affected by the use of licensed materials. Licensed activities ceased completely in September 2002, and the licensee requested release of the facility for unrestricted use. Based on the licensee's historical knowledge of the sites and the condition of the facility, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. A decommissioning plan was not required to be submitted to the NRC. The licensee surveyed the facility and provided documentation that the facility meets the license termination criteria specified in subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.'' NRC staff will perform a confirmatory survey prior to termination of the license.

The Proposed Action

The proposed action is to terminate NRC Radioactive Materials License No. 45–03302–01 and release the licensee's facility at 2778 South Eastside Highway in Elkton, Virginia, for unrestricted use. By letters dated September 23, 2002 and March 17, 2003, Merck & Company provided survey results which demonstrate that the Elkton, Virginia facility is in compliance with the radiological criteria for license termination in subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.''

Purpose and Need for the Proposed Action

The purpose of the proposed action is to release Merck & Company's facility located at 2778 South Eastside Highway in Elkton, Virginia for unrestricted use and termination of the license. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for release of facilities for unrestricted use that ensures protection of the public health and safety and environment.

Alternatives to the Proposed Action

The only alternative to the proposed action of terminating the license and release of the Elkton, Virginia facility for unrestricted use is no action. The no-action alternative is not acceptable because it will result in violation of NRC's Timeliness Rule (10 CFR 30.36), which requires licensees to decommission their facilities when licensed activities cease. The licensee does not plan to perform any activities with licensed materials at this location. Maintaining the area under a license would also reduce options for future use of the property.

The Affected Environment and Environmental Impacts

The NRC staff has reviewed the surveys performed by Merck & Company to demonstrate compliance with the 10 CFR 20.1402 license termination criteria. Based on its review, the staff has determined that the affected environment and environmental impacts associated with the decommissioning of Merck & Company's facility are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC–Licensed Facilities'' (NUREG–1496). The staff also finds that the proposed release for unrestricted use of the Merck & Company facility is in compliance with 10 CFR 201402, ''Radiological Criteria for Unrestricted Use.'' The NRC has found no other activities in the area that could result in cumulative impacts.

Agencies and Persons Contacted and Sources Used

This Environmental Assessment was prepared entirely by the NRC staff. The U. S. Fish and Wildlife Service was contacted for comment and responded by letter dated January 16, 2003, with no opposition to the action. The Virginia Department of Historic Resources was also contacted and had no comment.

Conclusion

Based on its review, the NRC staff has concluded that the proposed action complies with 10 CFR part 20. NRC has prepared this EA in support of the proposed license termination to release the Merck & Company facility located at 2778 South Eastside Highway in Elkton, Virginia for unrestricted use. On the basis of the EA, NRC has concluded that the environmental impacts from the proposed action are not expected to be significant and has determined not to prepare an environmental impact statement for the proposed action.

List of Preparers

Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, Health Physicist.

List of References

1. NRC License No. 45–03302–01 inspection and licensing records.

2. Merck & Company. ''Request for Declaration of Decommissioned Status'' Letter and supporting documentation from D. Kremer to NRC dated September 23, 2002. (ML022680313)

3. Merck & Company. ''Additional Information Concerning Request Dated September 23, 2003'' Letter and supporting documentation from D. Kremer to NRC dated March 17, 2003.(ML030830011)

4. Title 10 Code of Federal Regulations part 20, subpart E, ''Radiological Criteria for License Termination.''

5. **Federal Register** notice, Volume 65, No. 114, page 37186, dated Tuesday, June 13, 2000, ''Use of Screening Values to Demonstrate Compliance With The Federal Rule on Radiological Criteria for License Termination.''

6. United States Department of the Interior. ''Merck & Company Elkton Facility, Termination of Byproduct

Materials License, #2803, Rockingham County, Virginia'' Letter from K. Mayne, U.S. Fish and Wildlife Service to NRC dated January 16, 2003. (ML030220358)

III. Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the staff has determined that preparation of an environmental impact statement is not warranted.

IV. Further Information

The references listed above are available for public inspection and may also be copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These documents are also available for public review through ADAMS, the NRC's electronic reading room, at: *http://www.nrc.gov/reading-rm/adams.htlm*. Any questions with respect to this action should be referred to Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region II, Suite 23T85, 61 Forsyth Street, SW., Atlanta, Georgia 30303. Telephone 404–562–4739.

Dated at Atlanta, Georgia, the 17th day of June, 2003.

For the Nuclear Regulatory Commission.

Douglas M. Collins,

Director, Division of Nuclear Materials Safety, Region II.

[FR Doc. 03–16534 Filed 6–30–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Meeting

DATE: Weeks of June 30, July 7, 14, 28, August 4, 2003.

PLACE: Commissioners' Conference Room, 1155 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of June 30, 2003

Tuesday, July 1, 2003

10 a.m. Briefing on Status of Office of Nuclear Security and Incident Response (NSIR) Programs, Performance, and Plans (closed—Ex.1).

Week of July 7, 2003—Tentative

There are no meetings scheduled for the week of July 7, 2003.

Week of July 14, 2003—Tentative

There are no meetings scheduled for the week of July 14, 2003.

Week of July 21, 2003—Tentative

There are no meetings scheduled for the week of July 21.

Week of July 28, 2003—Tentative

There are no meetings scheduled for the week of July 28, 2003., 2003.

Week of August 4, 2003—Tentative

There are no meetings scheduled for the week of August 4, 2003.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html*.

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This notice is distributed by mail to several hundred subscribers; if you no long wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: June 26, 2003.

D.L. Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–16692 Filed 6–27–03; 10:57 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

NCOA^{Link} (National Change of Address Linkage System) Product

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The United States Postal Service has developed the NCOA^{Link} secure dataset product that will enable mailers to update name and address mailing lists with customers' new mailing addresses prior to mailing in a manner which will increase the security of postal customer data and further protect the privacy of this information. This does not represent a change in address policy. Rather, this increases the security of address information. The Postal Service intends, after an appropriate transition period, to replace the current National Change of Address (NCOA) and FASTforward® Mailing List Correction (MLC) licensed products with NCOA^{Link} licensed products. At this time the NCOA^{Link} technology is not supported on Multiline Optical Character Reader (MLOCR) platforms, therefore there is no impact to the FASTforward® MLOCR licensed service. Beginning July 1, 2003, interested parties may apply for NCOA^{Link} product licenses. Effective October 1, 2003, the usage of the NCOA^{Link} product will be recognized as an additional method for mailers to meet the USPS Move Update requirements in order to obtain First-Class Mail automation and Presorted discounts.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Contact the Move Update Department—NCOA^{Link} Group at the Postal Service National Customer Support Center at (800)–589–5766; or John Boyce at (901) 681–4666; or Charles Hunt at (901) 681–4651; or Wayne Orbke at (901) 681–4658.

SUPPLEMENTARY INFORMATION: Mailers will be able to process a mailing list using NCOA^{Link} and update the mailing addresses on the list with permanent change-of-address (COA) information using secure data store technology. This technology process results in no human-readable address information being represented within the NCOA^{Link} product. Therefore it provides a very high level of security for customer-filed COA information and significantly strengthens the ability of the Postal Service to exercise appropriate oversight of the information. The introduction of NCOA^{Link} does not change, in any way, Postal Service policies or usage restrictions regarding change-of-address information. This new product will be available under license from the Postal Service and will be available both to individual mailers and to service bureaus.

This product enables the Postal Service to make available a pre-mailing address correction service in a format that is not a clear text address list, but is instead a mathematical formulation. As a result, mailers can potentially integrate the NCOA^{Link} product into their own in-house computer technology and have the ability to update address-specific information for mailings during their business operations.

As with the Postal Service's current NCOA and FASTforward® products, in order for a mailer to obtain updated address information from the NCOA^{Link} product, it must already possess names and old addresses that will be matched against it. The NCOA^{Link} product, due to the inherently secure data store technology employed, cannot be used to create mailing lists.

Improving the security and quality of mailer address information benefits all parties, including the customer, the mailer and the Postal Service. Customers benefit from the added security of their address information, and the increased accuracy of delivery, so that mail is not delivered to the wrong address. A mailer benefits by managing correct address information for its customers, reducing mailing costs and other significant business costs associated with handling inaccurate address information. The Postal Service benefits from reduced volumes of undeliverable-as-addressed mail and decreased processing and handling costs for such mail. By creating and licensing the NCOA^{Link} product for updating mailing lists, the Postal Service is expanding the scope of its ongoing efforts to reduce the volume of undeliverable-as-addressed mail and add security to address information.

Commencing on July 1, 2003, the Postal Service will begin accepting applications for new NCOA^{Link} Licensees. To ensure that no service disruption will occur, existing NCOA and FASTforward® MLC licensees will be provided transition periods to migrate to the new NCOA^{Link} system. The Postal Service intends to discontinue support for NCOA on September 30, 2004, and FASTforward® MLC on September 30, 2005. The Postal Service may elect to extend these dates. The Postal Service proposes to enter into non-exclusive, annually renewable NCOA^{Link} license agreements with approved mailers and service bureaus no earlier than October 1, 2003, or such later date as the Postal Service may designate. Additionally, on July 1, 2003, software developers may apply to be an authorized NCOA^{Link} software interface developer. All NCOA^{Link} applications may be obtained by writing to: Move Update Department—NCOA^{Link} Group, National Customer Support Center, United States Postal Service, 6060 Primacy Parkway Suite 201, Memphis TN 38188–0001.

Categories of NCOA^{Link} Product Licensees

The Postal Service will license the NCOA^{Link} product in three categories: Full Service Providers, Limited Service Providers, and End-User Mailers. The license fees have been established with the goal of enabling the Postal Service to recover actual and anticipated costs for developing, supporting, and administering the NCOA^{Link} product in the marketplace. The categories are described as follows:

1. Full Service Provider

A Full Service Provider is a licensee that uses the NCOA^{Link} product to update mailing lists, most of which are owned by unrelated third parties. The Postal Service will require Full Service Providers to also implement service using other Address Quality tools designated by the Postal Service (*e.g.* Delivery Point Validation, Locatable Address Correction System (LACS)). The Postal Service will provide the Full Service Provider with a forty-eight month NCOA^{Link} product COA dataset which will be updated on a weekly basis. A Full Service Provider will pay a $175,000.00 base annual license fee to the Postal Service.

2. Limited Service Provider

A Limited Service Provider is a licensee that uses the NCOA^{Link} product for updating either its own mailing lists or mailing lists owned by third parties. The Postal Service will provide the Limited Service Provider with an eighteen month NCOA^{Link} product COA dataset which will be updated on a weekly basis. The Limited Service Provider will pay a $15,000.00 base annual license fee to the Postal Service.

3. End-User Mailer

The End-User Mailer is a licensee that uses the NCOA^{Link} product to update mailing lists for its own mailings. The End-User Mailer may not update mailing lists for third parties. The Postal Service will provide the End-User Mailer with an eighteen month NCOA^{Link} product COA dataset which will be updated on a monthly basis. The End-User Mailer will pay a $7,500.00 base annual license fee to the Postal Service.

The Postal Service may adjust all license fees in all categories after the first year of the license agreement.

NCOA^{Link} Product Usage at Multiple Locations (Sites)

In order for any category of licensee to use the NCOA^{Link} product at more than one of its sites, the licensee must pay the Postal Service an additional annual site license fee of one-half the base annual license fee for each additional site that they wish to use the NCOA^{Link} product.

Existing NCOA and FASTforward® MLC Licensees Transition

The initial licensing term for all categories of the NCOA^{Link} product will begin on October 1, 2003 and expire on September 30, 2004.

During the initial licensing term and until the discontinuation of NCOA, which is also on September 30, 2004, NCOA licensees who apply and are authorized, in addition to their NCOA license fees, will pay a transition base annual license fee of $25,000.00 to obtain the NCOA^{Link} product for use as a Full Service Provider at one site, plus a transition site license fee of $12,500 for each additional site at which they will use the NCOA^{Link} product. After the expiration of the initial NCOA^{Link} license term, full license fees set by the Postal Service will be due for the NCOA^{Link} product.

Different from NCOA, FASTforward® MLC will be supported an additional year until September 30, 2005. However, the transition licensing fees noted below shall only apply to the initial licensing term of the NCOA^{Link} product.

During the initial licensing term, FASTforward® MLC licensees who apply and are authorized to be Limited Service Providers shall, in addition to their FASTforward® MLC fees, pay a transition base annual license fee of $5,000.00 to use the NCOA^{Link} product at one site, plus a transition site license fee of $2,500 for each additional site at which they will use the NCOA^{Link} product.

During the initial licensing term, FASTforward® MLC licensees who apply and are authorized to be End-User Mailers shall, in addition to their FASTforward® MLC fees, pay a transition base annual license fee of $2,500.00 to use the NCOA^{Link} product at one site, plus a transition site license fee of $1,250.00 for each additional site at which they will use the NCOA^{Link} product prior to October 1, 2004.

After the expiration of the initial NCOA^{Link} license term, full license fees set by the Postal Service will be due for both the NCOA^{Link} product and for FASTforward® MLC until its discontinuation the following year.

The Postal Service will treat existing NCOA and FASTforward® MLC licensees that do not apply for NCOA^{Link} product licenses prior to September 30, 2004, as new applicants for the NCOA^{Link} product. The Postal Service will require these applicants to pay the same license fees and satisfy the same application requirements as other new applicants. Accordingly, the license fees described above that are

effective during the transition period will not be available to these existing NCOA and FASTforward® MLC licensees.

The above transition examples illustrate how license fees would be handled when a current licensee applies for an NCOA^{Link} category that is the equivalent to its current licensee status. However, current NCOA and FASTforward® MLC licensees may apply for any license category which they may be qualified for and if approved, by paying the applicable new license fee. Detailed qualification criteria for each category of NCOA^{Link} licensee is available from the Move Update Department—NCOA^{Link} Group, National Customer Support Center at (800) 589–5766.

Authorized NCOA^{Link} Software Interface Developer

Software developers may apply to provide NCOA^{Link} interface software products to the mailing industry. If approved and after the execution of an NCOA^{Link} developer's license agreement along with the receipt of an initial year $5,000.00 license fee, the Postal Service will provide the interface developer with a Software Developer's Kit (SDK) to be used in accordance with the terms and conditions set forth in the license agreement. The license fee includes testing and certification of a single platform. Additional platform certifications or any subsequent testing due to performance failures noted during the testing will be assessed at an additional $1,000.00 fee. After the NCOA^{Link} interface software has been tested and approved by the Postal Service it will be officially certified for the specific software platform tested. In subsequent years the developer's license may be renewed for a $1,000.00 fee which includes testing and certification of a single platform. Additional platform certifications or any subsequent testing due to performance failures noted during the testing will continue to be assessed at an additional $1,000.00 fee. The Postal Service must certify the interface developer's NCOA^{Link} software before the interface developer may use, sell, or permit third parties to use the program.

Commercial Sale of NCOA^{Link} Interface Software

Software developers must execute a separate commercial sale license agreement with the Postal Service in order to market its NCOA^{Link} software to any third parties. This license authorizes sales and/or distribution activity of the developer's NCOA^{Link} software interface for a period of one year for an annual license fee of $25,000.00. This fee provides unlimited distribution to Postal Service authorized NCOA^{Link} applicants and/or licensees within the terms and conditions of the license agreement. An interface developer that has performed in accordance with the license agreement may re-apply to sell its NCOA^{Link} software for additional one-year terms at the applicable license fee and terms set by the Postal Service. An interface developer must advise its potential customers that its NCOA^{Link} software cannot be used by a party who is not or cannot be licensed by the Postal Service to use the NCOA^{Link} product.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 03–16596 Filed 6–30–03; 8:45 am]

BILLING CODE 7710–12–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27689]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 24, 2003.

Notice is hereby given that the following filings have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 18, 2003 to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After July 18, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy East Corp. (70–10119)

Energy East Corp. (''Energy East''), located at P.O. Box 12904 Albany, New York 12212–2904, a registered holding company under the Act, has filed an application under section 13(b) and rules 88, 90, and 91 under the Act. Energy East proposes to organize a second wholly owned subsidiary service company called Energy East Shared Services Corporation (''Shared Services'') that will be a Delaware corporation.

Currently, Energy East has a Commission authorized service company for the Energy East holding company system, Energy East Management Corporation (''EEMC''). EEMC has a national and regional focus for its activities and will be principally engaged in general management and providing strategic services to the Energy East System after Shared Services is approved. EEMC's services will then include: overall corporate supervision of the Energy East system, strategic advice, investor relations, corporate finance, corporate governance and related activities associated with maintaining a public holding company that is a regional energy services provider, such as corporate financial consolidation and reporting.

In contrast, the second service company, Shared Services, proposes to provide the Energy East system with a variety of administrative and operations services. The services provided by Shared Services would be provided to the public utility subsidiary companies, listed below (''Utility Subsidiaries''), but a limited number of services in the human resources area such as payroll processing will be provided to EEMC and Energy East, where appropriate and consistent with the economical and efficient performance of services at cost. Shared Service's services may include: supply chain; information technology; accounting; human resources; customer service; payroll; engineering; regulatory services; and numerous other day today operating and administrative services that all Utility Subsidiaries require to operate. Energy East states that it is possible, that as functions are transitioned to Shared Services some services may be performed, for a limited period of time, by Utility Subsidiary personnel until the positions are formally transferred to Shared Services. To the extent that rule 87(a)(3) does not apply, Energy East requests, on behalf of the Utility Subsidiaries, authority for the Utility Subsidiaries to provide services to Shared Services.

Energy East holds direct or indirect interests in the following Utility

Subsidiaries, each of which is wholly owned by companies within the Energy East system:

- New York State Electric & Gas Corporation, a New York corporation and a wholly-owned direct subsidiary of RGS Energy Group, Inc., which purchases, transmits and distributes electricity and purchases, transports and distributes natural gas in parts of New York;
- RG&E, a New York corporation and a wholly-owned subsidiary of RGS, which generates, purchases, transmits and distributes electricity and purchases, transports and distributes natural gas in parts of New York;
- The Southern Connecticut Gas Company, a Connecticut corporation and a wholly-owned subsidiary of Connecticut Energy, which is engaged in the retail distribution and transportation of natural gas in parts of Connecticut;
- Central Maine Power Company, a Maine corporation and a public utility holding company exempt from all provisions of the Act except Section 9(a)(2), by order issued under Section 3(a)(2), the common stock of which is wholly-owned by CMP Group, which is primarily engaged in purchasing, transmitting and distributing electricity in Maine;
- Connecticut Natural Gas Corporation, a Connecticut corporation and a wholly-owned subsidiary of CTG Resources, which is primarily engaged in the retail distribution and transportation of natural gas to parts of Connecticut; and
- The Berkshire Gas Company, a Massachusetts corporation and a wholly-owned subsidiary of Berkshire Energy, which is engaged in the sale and distribution of natural gas in western Massachusetts;
- Maine Natural Gas Corporation, a Maine corporation which distributes gas in Maine and which is a wholly-owned subsidiary of Energy East Enterprises, Inc., a Maine corporation, a wholly-owned subsidiary of Energy East and a public utility holding company exempt from all provisions of the Act except Section 9(a)(2), by order issued under section 3(a)(1) of the Act.

Energy East also owns indirect interests in the following public utility companies: MEPCo, a Maine corporation, which owns and operates a 345kV transmission interconnection between Maine and New Brunswick, Canada international border at Orient, Maine. Central Maine Power presently owns a 78.3% voting interest in MEPCo with the remaining interests owned by two other Maine utilities; NORVARCO, a Maine corporation, which holds a 50% general partnership interest in Chester SVC Partnership, a general partnership which owns a static var compensator located in Chester, Maine, adjacent to MEPCo's transmission interconnection. NORVARCO is presently a wholly-owned subsidiary of Central Maine Power.

Shared Services will be a wholly-owned direct subsidiary of Energy East. Shared Services capitalization will consist of 200 shares of common stock, par value $.01 per share. Initially, Shared Services working capital needs will be met through intercompany borrowings from Energy East pursuant to rule 52(b). Shared Services proposes to provide the companies in the Energy East system with a variety of administrative and operations services. Shared Services' activities would be conducted in accordance with service agreements (''Service Agreements'') that Shared Services will enter into with each of the companies that it serves.

The presidents of each of the Utility Subsidiaries will serve on the Board of Directors of Shared Services, in addition to other persons as may be elected from time to time. Shared Services will be staffed by employees who will be transferred over time from other Energy East system companies or who will be hired externally. The decision to move positions from the Utility Subsidiaries to Shared Services will be made function by function and position by position with a view towards maximizing system wide efficiency. Energy East, states the determinative factor whether a position is moved to the Shared Services payroll will be whether the employee in that position would spend the majority of his or her time on group-wide activities (and allocate his/her time between a number of companies) or company-specific activities (and allocate virtually all of his/her time to a single company). If the former, that position would generally be transferred to Shared Services. As a general rule, the individual system companies will continue to perform services that can benefit from individualized application at the company level, with Shared Services performing functions that can be more economically and efficiently performed in a centralized manner. To the extent that employees of system companies other than Shared Services are collecting data or information for use by Shared Services, management will provide the necessary direction to other system company employees and oversight as to the functions they perform to ensure proper coordination and efficient integration of the Energy East system.

The Service Agreements will provide methodologies to ensure that all client companies pay to Shared Services the cost of all services, computed in accordance with the applicable rules and regulations (including, but not limited to rules 90 and 91) under the Act and appropriate accounting standards. Where more than one client company is involved in, or has received benefits from, a service performed by Shared Services, the Service Agreements will provide that client companies will pay their fairly allocated pro rata share in accordance with the methods set out in appendices to the Service Agreements. Thus, charges for all services provided by Shared Services to Energy East system companies will be on an ''at cost'' basis as determined under rules 90 and 91 under the Act.

Shared Services will maintain its accounts, cost-accounting procedures and other records in accordance with the requirements of the Commission's Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies utilizing, however, the chart of accounts specified in the FERC Uniform System of Accounts for Public Utilities and Licensees (18 CFR part 101). Shared Services will file annual reports on Form U–13–60 in accordance with rule 94, commencing with the report for calendar year 2003.

No material change in the organization of Shared Services, the methods of allocating cost to associate companies, or in the scope or character of the services to be rendered by Shared Services, subject to section 13 of the Act, or any rule, regulation or order, shall be made unless and until Shared Services shall first have given the Commission written notice of the proposed change not less than 60 days prior to the proposed effectiveness of any such change. If, upon the receipt of any such notice, the Commission shall notify Shared Services within the 60-day period that a question exists as to whether the proposed change is consistent with the provisions of section 13 of the Act, or of any rule, regulation or order, then the proposed change shall not become effective unless and until Shared Services shall have filed with the Commission an appropriate declaration regarding such proposed change and the Commission shall have permitted such declaration to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16518 Filed 6–30–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26080; File No. 812–12938]

Western-Southern Life Assurance Company, et al.; Notice of Application

June 25, 2003.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26 (c) of the Investment Company Act of 1940 (the ''Act'') approving certain substitutions of securities.

APPLICANTS: Western-Southern Life Assurance Company (''Western-Southern''), Separate Account 1 of Western-Southern (''Western-Southern Separate Account 1''), Separate Account 2 of Western-Southern (''Western-Southern Separate Account 2,'' together with Western-Southern Separate Account 1, the ''Western-Southern Separate Accounts''), Integrity Life Insurance Company (''Integrity''), Separate Account I of Integrity (''Integrity Separate Account I''), Separate Account II of Integrity (''Integrity Separate Account II,'' together with Integrity Separate Account I, the ''Integrity Separate Accounts''), National Integrity Life Insurance Company (''National Integrity''), Separate Account I of National Integrity (''National Integrity Separate Account I''), Separate Account II of National Integrity (''National Integrity Separate Account II,'' together with National Integrity Separate Account I, the ''National Integrity Separate Accounts), Columbus Life Insurance Company (Columbus Life'' and together with Western-Southern, Integrity and National Integrity, the ''Insurance Companies'' and each individually, an ''Insurance Company'') and Separate Account 1 of Columbus Life (''Columbus Life Separate Account 1,'' and together with the Western-Southern Separate Accounts, the Integrity Separate Accounts and the National Integrity Separate Accounts, the ''Separate Accounts'') (collectively, the ''Applicants'').

SUMMARY OF APPLICATION: Applicants request an order approving the substitution of shares of (i) the Touchstone Money Market Fund for shares of the Fidelity VIP Money Market Portfolio and (ii) the Putnam VT International Equity Fund (formerly the Putnam VT International Growth Fund) for the Touchstone International Equity Fund (each a ''Substitution'' collectively the ''Substitutions'').

FILING DATE: The application was filed on March 4, 2003 and was amended and restated on June 19, 2003.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 18, 2003 and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: G. Stephen Wastek, Esq., Integrity Life Insurance Company, 515 West Market Street, Louisville, Kentucky 40202, Elisabeth A. Dahl, Esq., Western-Southern Life Assurance Company, 400 Broadway, Cincinnati, Ohio 45202 and Robert N. Hickey, Esq., Sullivan & Worcester LLP, 1666 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: H. Yuna Peng, Attorney, at (202) 942–0676, or Lorna J. MacLeod, Branch Chief, at 202–942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Western-Southern is a stock life insurance company organized under the laws of the State of Ohio. It is a wholly-owned subsidiary of The Western and Southern Life Insurance Company (''WSLIC''). WSLIC is a wholly-owned subsidiary of Western-Southern Mutual Holding Company, a mutual holding company organized under the laws of the State of Ohio in 2000.

2. Integrity is a stock life insurance company organized under the laws of Ohio. Integrity is an indirect wholly-owned subsidiary of WSLIC.

3. National Integrity is a stock life insurance company organized under the laws of New York. National Integrity is a direct wholly-owned subsidiary of Integrity and an indirect wholly-owned subsidiary of WSLIC.

4. Columbus Life is a stock life insurance company organized under the laws of the State of Ohio. It is a wholly-owned subsidiary of WSLIC.

5. Western-Southern Separate Account 1 was established under Ohio law in 1992. Western-Southern Separate Account 1 is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by Western-Southern. Two variable annuity contracts funded by Western-Southern Separate Account 1 are affected by this application.

6. Western-Southern Separate Account 2 was established under Ohio law in 1994. Western-Southern Separate Account 2 is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by Western-Southern. One variable annuity contract funded by Western-Southern Separate Account 2 is affected by this application.

7. Integrity Separate Account I was established under Ohio law in 1986. Integrity Separate Account I is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by Integrity. Three variable annuity contracts funded by Integrity Separate Account I are affected by this application.

8. Integrity Separate Account II was established under Ohio law in 1992. Integrity Separate Account II is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by Integrity. One variable annuity contract funded by Integrity Separate Account II is affected by this application.

9. National Integrity Separate Account I was established under New York law in 1992. National Integrity Separate Account I is registered under the Act as a unit investment trust and is used to fund variable annuity contracts issued by National Integrity. Three variable annuity contracts funded by National Integrity Separate Account I are affected by this application.

10. National Integrity Separate Account II was established under New York law in 1992. National Integrity Separate Account II is registered under the Act as a unit investment trust and is used to fund variable annuity

contracts issued by National Integrity. One variable annuity contract funded by National Integrity Separate Account II is affected by this application.

11. Columbus Life Separate Account 1 was established under Ohio law in 1998. Columbus Life Separate Account 1 is registered under the Act as a unit investment trust and is used to fund variable universal life insurance policies issued by Columbus Life. One variable universal life insurance policy funded by the Columbus Life Separate Account 1 is affected by this application. The eleven variable annuity contracts and one variable universal life insurance policy affected by this application are hereinafter collectively referred to as the ''Contracts.''

12. Purchase payments under the Contracts are allocated to one or more subaccounts of the Separate Accounts (the ''subaccounts''). Income, gains and losses, whether or not realized, from assets allocated to the Separate Accounts are, as provided in the Contracts, credited to or charged against the Separate Accounts without regard to other income, gains or losses of the applicable Insurance Company. The assets maintained in the Separate Accounts will not be charged with any liabilities arising out of any other business conducted by the applicable Insurance Company. Nevertheless, all obligations arising under the Contracts, including the commitment to make annuity payments or death benefit payments, are general corporate obligations of the applicable Insurance Company. Accordingly, all of the assets of each of the Insurance Companies are available to meet its obligations under its Contracts.

13. Each of the Contracts permits allocations of accumulation value to available subaccounts that invest in specific investment portfolios of underlying mutual funds. Each Contract offers between 17 and 33 portfolios with respect to the Contracts funded by the Western-Southern Separate Accounts and Columbus Life Separate Account 1 and between 56 and 61 portfolios with respect to the Contracts funded by the Integrity Separate Accounts and the National Integrity Separate Accounts. Each of the Contracts offers the Fidelity VIP Money Market Portfolio and/or the Touchstone International Equity Fund, the portfolios that are the subject of the Substitutions (the ''Replaced Funds''). Before the date of the Substitutions, the Touchstone Money Market Fund, which is proposed as the replacement for the Fidelity VIP Money Market Portfolio, and the Putnam VT International Equity Fund, which is proposed as the replacement for the Touchstone International Equity Fund, (each a ''Replacement Fund'' and together, the ''Replacement Funds''), if not already offered under the Contracts, will be added to the Contracts, as applicable. In addition, included in the Contracts are several alternative fixed interest rate options that are available to contract owners.

14. Each of the Contracts permit transfers of accumulation value from one subaccount to another subaccount at any time prior to the extended coverage period that begins at the insured's age 100 (in the case of Contracts relating to the variable insurance policy) or prior to annuitization (in the case of Contracts relating to variable annuities), subject to certain restrictions and charges described below. No sales charge applies to such a transfer of accumulation value among subaccounts.

15. The Contracts permit up to twelve free transfers during any contract year. A fee may be imposed on transfers in excess of twelve transfers in a contract year. Transfers must be at least $250, or, if less, the entire amount in the subaccount from which value is to be transferred. A variety of types of automatic scheduled transfers are permitted without charge and are not counted against the twelve free transfers in a contract year.

16. Each of the Contracts reserves the right, upon notice to contract owners and compliance with applicable law, to add, combine or remove subaccounts, or to withdraw assets from one subaccount and put them into another subaccount. This reserved right is disclosed in each Contract's prospectus.

17. Each Insurance Company, on its behalf and on behalf of the Separate Accounts set forth below, propose the following Substitutions:

Proposed substitution	Separate accounts
(i) the Touchstone Money Market Fund for shares of the Fidelity VIP Money Market Portfolio.	Integrity Separate Account I, Integrity Separate Account II, National Integrity Separate Account I, National Integrity Separate Account II.
(ii) the Putnam VT International Equity Fund for shares of the Touchstone International Equity Fund.	Western-Southern Separate Account 1, Western-Southern Separate Account 2, Integrity Separate Account I, Integrity Separate Account II, National Integrity Separate Account I, National Integrity Separate Account II, Columbus Life Separate Account 1.

18. In the case of the Substitution relating to the Touchstone Money Market Fund, shares of each class of the Replaced Fund will be liquidated and the proceeds will be used to purchase shares of the equivalent corresponding class of the Replacement Fund. Class I shares of the Touchstone Money Market Fund (which have no Rule 12b–1 fee) will be substituted for Initial class shares of the Fidelity VIP Money Market Portfolio (which have no Rule 12b–1 fee) and Class SC shares of Touchstone Money Market Fund (which have a Rule 12b–1 fee of 0.25%) will be substituted for Service Class 2 shares of the Fidelity VIP Money Market Portfolio (which have a Rule 12b–1 fee of 0.25%). In the case of the Substitution relating to the Putnam VT International Equity Fund, Class IB shares of the Putnam VT International Equity Fund (which have a Rule 12b–1 fee of 0.25%) will be substituted for Class I shares of the Touchstone International Equity Fund (which have no Rule 12b–1 fee).

19. Touchstone Advisors, Inc. (''Touchstone''), a wholly-owned subsidiary of WSLIC, serves as the investment adviser to the Touchstone International Equity Fund and to the Touchstone Money Market Fund. Fidelity Management and Research Company serves as the investment adviser to the Fidelity VIP Money Market Portfolio. Putnam Investment Management, LLC serves as investment adviser to the Putnam VT International Equity Fund. Fidelity Management and Research Company and Putnam Investment Management, LLC are unaffiliated with Touchstone and the Insurance Companies.

20. The investment objectives, policies and restrictions of the Replacement Funds are in each case substantially similar to the investment objectives, policies and restrictions of the respective Existing Funds. Set forth below is a description of the investment objectives and principal investment policies of each Existing Fund and its corresponding Replacement Fund.

21. The Fidelity VIP Money Market Portfolio is a separate series of the Variable Products Insurance Fund. The Fidelity VIP Money Market Portfolio

seeks to earn a high level of current income while preserving capital and providing liquidity. It invests only in high-quality, U.S. dollar denominated money market securities of domestic and foreign issuers, such as certificates of deposit, obligations of governments and their agencies, and commercial paper and notes.

22. The Touchstone Money Market Fund is a separate series of the Touchstone Variable Series Trust, an open-end management investment company registered under the Act. The Touchstone Money Market Fund seeks high current income, consistent with liquidity and stability of principal. The Fund invests in high-quality money market instruments. The Fund's investments may include domestic bank obligations, including certificates of deposit, bankers' acceptances and time deposits; U.S. Government obligations issued directly by the U.S. Treasury or by agencies of the U.S. Government; short-term corporate debt obligations and taxable and tax-exempt municipal securities.

23. The Touchstone International Equity Fund is a separate series of the Touchstone Variable Series Trust. The investment objective of the Touchstone International Equity Fund is to seek long-term growth of capital through investment in equity securities of foreign issuers. The Fund seeks growth of capital. This means that the Fund looks for investments that it thinks will increase in value over a period of 3 to 5 years. Under normal circumstances, the Fund will invest at least 80% of net assets in the common stock and preferred stock of foreign companies in at least 3 countries outside of the United States. The Fund focuses on mid- and large-capitalization located in Europe, Australia and the Far East. The Fund may invest up to 15% of its assets in securities issued by companies located in emerging market countries.

24. The Putnam VT International Equity Fund is a separate series of Putnam Variable Trust, an open-end management investment company registered under the Act. The Putnam VT International Equity Fund seeks capital appreciation. It invests mainly in common stocks of companies outside the United States. The Fund's investment adviser looks for companies it believes to have favorable investment potential. For example, it may purchase stocks of companies with stock prices that reflect a value lower than that which the investment adviser places on the company. The Fund invests mainly in mid-sized and large companies, although it can invest in companies of any size. Although the Fund emphasizes investments in developed countries, it may also invest in companies located in emerging markets.

25. The Substitutions are a part of a restructuring designed to eliminate the offering of overlapping funds in the Western-Southern enterprise and those available from unaffiliated funds which also are available as investment options, with similar investment objectives and strategies and to eliminate uncompetitive products based on performance history or lack of ability to gather assets to be operationally efficient that serve as funding vehicles for insurance contracts issued by Western-Southern and its affiliates, including the Insurance Companies.

26. The Substitution of Touchstone Money Market Fund for Fidelity VIP Money Market Portfolio, which replaces an outside fund with a fund for which Touchstone acts as investment adviser also will permit Touchstone, under the Multi-Manager Order, to hire, monitor and replace sub-advisers as necessary to seek optimal performance. Before Touchstone Money Market Fund can rely on the Multi-Manager Order, the operation of the Touchstone Money Market Fund as a multi-manager fund, as described in the application for the Multi-Manager Order, will be approved, following the proposed Substitution, by a majority of the outstanding voting securities of the Touchstone Money Market Fund.

27. In addition, contract owners with sub-account balances invested in shares of the Replacement Funds will have a lower management fee and the same (or lower in the case of Class I shares) total expense ratio taking into account fund expenses and fee waivers, in the case of the Touchstone Money Market Fund, and a lower management fee and a lower total expense ratio taking into account fund expenses (including Rule 12b–1 fees) in the case of the Putnam VT International Equity Fund. With respect to the Substitution of the Class IB shares of the Putnam VT International Equity Fund for the Class I shares of the Touchstone International Equity Fund, the Insurance Companies considered the fact that the Class IB shares were already an investment option under certain contracts issued by Integrity and National Integrity. Moreover, there will be no increase in Contract fees and expenses, including mortality and expense risk fees and administration and distribution fees charged to the Separate Accounts as a result of the Substitutions. The Applicants believe that the Replacement Funds have investment objectives, policies and risk profiles that are substantially similar to the corresponding Replaced Funds to make those Replacement Funds appropriate candidates as substitutes. The Insurance Companies considered the performance history of the Replaced Funds and the Replacement Funds and determined that no contract owners would be materially adversely affected as a result of the Substitutions.

28. With respect to the Substitution relating to the Touchstone International Equity Fund, the Applicants represent that (i) the Insurance Companies will not receive, for three years from the date of the Substitution, any direct or indirect benefits from the Replacement Fund, its adviser or underwriter (or their affiliates), in connection with assets representing contract values of Contracts affected by the Substitution, at a higher rate than they had received from the Replaced Fund, its adviser or underwriter (or their affiliates), including without limitation: Rule 12b–1, shareholder service, administration or other service fees, revenue sharing or other arrangements in connection with such assets; and (ii) the Substitution and the selection of the Replacement Fund was not motivated by any financial consideration paid or to be paid to the Insurance Companies by the Replacement Fund, its adviser or underwriter or their respective affiliates.

29. The following describes the proposed Substitutions with respect to each Fund's comparative performance history and comparative fund expenses.

Fidelity VIP Money Market Portfolio—Touchstone Money Market Fund

The Applicants represent that the historical performance of Touchstone Money Market Fund for the year ended December 31, 2002 is comparable to and for the three-month period ended April 30, 2003 and year-to-date through April 30, 2003 exceeds that of, Fidelity VIP Money Market Portfolio. Effective April 28, 2003, Touchstone Money Market Fund's management fee was reduced to 0.18%. In addition, the Fund entered into a Sponsor Agreement with Touchstone, effective April 28, 2003, whereby total annual operating expenses for the Class I shares will not exceed 0.28% and total annual operating expenses for the Class SC shares will not exceed 0.55% through December 31, 2005. The Sponsor Agreement will be amended with respect to Class SC shares prior to the Substitution to provide that total annual operating expenses will not exceed 0.54% for at least two years from the date of the Substitution. As a result of the change in management fee and the expense cap contained in the amended Sponsor Agreement, as set forth below,

the management fee of Touchstone Money Market Fund is lower than that of Fidelity VIP Money Market Portfolio, and, including expense waivers, Touchstone Money Market Fund's total annual operating expenses are the same (or lower in the case of Class I shares) as those of Fidelity VIP Money Market Portfolio.

In percent

	Fidelity VIP money market portfolio (Initial Class)*	Touchstone money market fund (Class I) [1]	Fidelity VIP money market portfolio (Service Class 2)*	Touchstone money market fund (Class SC)*
Management Fee	0.20	0.18	0.20	0.18
12b–1 fee			25	25
Other Expenses	0.09	0.96	0.09	0.53
Total Annual Operating Expenses	0.29	**1.14	0.54	0.96
Waivers		0.86		0.42
Net Expenses	0.29	0.28	0.54	0.54

* Expenses for fiscal year ended December 31, 2002.
** Based on estimated amounts for the current fiscal year.
[1] *Pro forma* expenses for fiscal year ended December 31, 2002 giving effect to amended Sponsor Agreement.

Found Performance as of April 30, 2003

In percent

	One Year*	Three-Month	YTD
Fidelity VIP Money Market Portfolio (Initial Class)	1.69	0.26	0.36
Touchstone Money Market Fund (Class I) [1] [2]*	1.58	0.27	0.37

* For calendar year ended December 31, 2002.
[1] The Class SC shares of Touchstone Money Market Fund was organized on April 28, 2003 and has not yet commenced operations. No performance information is available.
[2] The Touchstone Money Market Fund's performance for the one year ended December 31, 2002 reflects total annual operating expenses of 0.60%. As indicated above, effective April 28, 2003, the total annual operating expenses of the Fund are limited to 0.28% for Class I shares. If this expense limitation were in effect for the one year ended December 31, 2002, the Touchstone Money Market Fund's performance would have been 1.90%.

Touchstone International Equity Fund—Putnam VT International Equity Fund

The Applicants represent that the historical performance of Putnam VT International Equity Fund for the one-, three-, and five-year periods ended April 30, 2003 and year-to-date through April 30, 2003 has exceeded that of the Touchstone International Equity Fund. In addition, as set forth below, the management fee and total annual operating expenses (including a Rule 12b–1 fee of 0.25%) of Putnam VT International Equity Fund, both before and after expense waivers, are lower than those of Touchstone International Equity Fund.

In percent

	Touchstone International Equity Fund (Class I)*	Putnam VT International Equity Fund (Class IB)*
Management Fee	0.95	0.76
12b–1 fee		[1] 0.25
Other Expenses	1.72	0.18
Total Annual Operating Expenses	2.67	1.19
Waivers	1.42	
Net Expenses	1.25	1.19

* Expenses for fiscal year ended December 31, 2002.
[1] The Fund has adopted a Distribution Plan with respect to its Class IB shares to compensate Putnam Retail Management (the Fund*s underwriter) for services provided and expenses incurred by it as principal underwriter of the Class IB shares, including payments to insurance companies and their affiliated dealers for providing services to their contract holders investing in the Fund. The plan provides for payments by the Fund to Putnam Retail Management at the annual rate (expressed as a percentage of average net assets) of up to 0.35% on Class IB shares. The Trustees of the Fund currently limit payments on Class IB shares to 0.25% of average net assets.

Fund Performance as of April 30, 2003

[In percent]

	1 Year	3 Year	5 Year	YTD
Touchstone International Equity (Class I)	−23.50	−22.97	−10.05	−1.75
Putnam VT International Equity Fund (Class IB)	−18.01	−15.40	−1.26	0.12

30. The Substitutions will take place at the Funds' relative net asset values determined on the date of the Substitutions in accordance with Section 22 of the Act and Rule 22c–1 thereunder with no change in the amount of any contract owner's cash value or death benefit or in the dollar value of his or her investment in any of the subaccounts. Accordingly, there will be no financial impact on any contract owner. The Substitutions will be effected by having each of the subaccounts that invests in the Replaced Funds redeem its shares at the net asset value calculated on the date of the Substitution and purchase shares of the respective Replacement Fund at the net asset value calculated on the same date.

31. The Substitutions will be described in supplements to the prospectuses for the Contracts (''Stickers'') filed with the Commission and mailed to contract owners. The Stickers will give contract owners notice of the Substitutions and will describe the reasons for engaging in the Substitutions. The Stickers will also inform contract owners with value allocated to a subaccount investing in the Replaced Funds that no additional amount may be allocated to those subaccounts on or after the date of the Substitutions. In addition, the Stickers will inform affected contract owners that they will have the opportunity to reallocate accumulation value prior to the Substitutions from the subaccounts investing in the Replaced Funds, and for 30 days after the Substitutions from the subaccounts investing in the Replacement Funds to subaccounts investing in other portfolios available under the respective Contracts, without the imposition of any transfer charge or limitation and without diminishing the number of free transfers that may be made in a given contract year.

32. The prospectuses for the Contracts, as supplemented by the Stickers, will reflect the Substitutions. Each contract owner will be provided with a prospectus for the Replacement Funds before the Substitutions, unless such contract owner has already received a copy of such prospectus in the ordinary course. Within five days after the Substitutions, the Insurance Companies will each send affected contract owners written notice that the Substitutions have occurred. This written notice will also reiterate to contract owners that they will have the opportunity to reallocate accumulation value for 30 days after the Substitutions from the subaccounts investing in the Replacement Funds to subaccounts investing in other portfolios available under the respective Contracts.

33. The Insurance Companies, as applicable, will pay all expenses and transaction costs of the Substitutions, including all legal, accounting and brokerage expenses relating to the Substitutions. No costs will be borne by contract owners. Affected contract owners will not incur any fees or charges as a result of the Substitutions, nor will their rights or the obligations of the Applicants under the Contracts be altered in any way. The Substitutions will not cause the fees and charges under the Contracts currently being paid by contract owners to be greater after the Substitutions than before the Substitutions. The Substitutions will have no adverse tax consequences to contract owners and will in no way alter the tax benefits to contract owners.

34. Applicants believe that their request satisfies the standards for relief of Section 26(c) of the Act, as set forth below, because the affected contract owners will have:

(i) Contract values allocated to a subaccount invested in a Replacement Fund with an investment objective and investment policies substantially similar to the investment objective and policies of the Replaced Fund; (ii) Superior or comparable performance to that of the Replaced Funds; and (iii) Current total annual operating expenses that are the same or lower than those of the Replaced Fund.

Applicants' Legal Analysis

1. Section 26(c) of the Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve such a substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The purpose of Section 26(c) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions that might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a contract owner forced to redeem may suffer adverse tax consequences. Section 26(c) affords this protection to investors by preventing a depositor or trustee of a unit investment trust that holds shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

3. The purposes, terms and conditions of the Substitution are consistent with the principles and purposes of Section 26(c) and do not entail any of the abuses that Section 26(c) is designed to prevent.

4. Substitutions have been common where the substitute portfolio has investment objectives and policies that are similar to those of the eliminated portfolio, current expenses that are similar to or lower than those of the eliminated portfolio, and performance that is similar to or better than that of the eliminated portfolio.

5. In both cases the investment objectives and policies of the Replacement Funds are sufficiently similar to those of the corresponding Replaced Funds that contract owners will have reasonable continuity in investment expectations. Accordingly, the Replacement Funds are appropriate investment vehicles for those contract owners who have contract values allocated to the Replaced Funds.

6. The management fee and current total annual operating expenses (including Rule 12b–1 fees) are lower than those of the Replaced Fund, in the case of the Putnam VT International Equity Fund. In the case of the Touchstone Money Market Fund, the management fee is lower than that of the Replaced Fund and total annual

operating expenses, taking into effect expenses waivers, will be the same (or lower in the case of Class I shares). The Putnam VT International Equity Fund has had consistently better performance than the Touchstone International Equity Fund since its inception, and the Touchstone Money Market Fund has had comparable historical performance for the year ended December 31, 2002 to that of the Fidelity VIP Money Market Portfolio and its performance has exceeded that of the Fidelity VIP Money Market Portfolio for the three-month period ended April 30, 2003 and year-to-date through April 30, 2003.

7. The Substitutions will not result in the type of costly forced redemption that Section 26(c) was intended to guard against and, for the following reasons, are consistent with the protection of investors and the purposes fairly intended by the Act:

(a) Each of the Replacement Funds is an appropriate portfolio to which to move contract owners with values allocated to the Replaced Funds because the portfolios have substantially similar investment objectives and policies.

(b) The costs of the Substitutions, including any brokerage costs, will be borne by the Insurance Companies and will not be borne by contract owners. No charges will be assessed to effect the Substitutions.

(c) The Substitutions will be at the net asset values of the respective shares without the imposition of any transfer or similar charge and with no change in the amount of any contract owner's accumulation value or death benefit.

(d) The Substitutions will not cause the fees and charges under the Contracts currently being paid by contract owners to be greater after the Substitutions than before the Substitution and will result in contract owners' contract values being moved to portfolios with lower current total annual operating expenses (including a lower current management fee) than the Replaced Fund, in the case of the Putnam VT International Equity Fund, and the same (or lower) total annual operating expenses (including a lower current management fee) as the current total annual operating expenses of the Replaced Fund in the case of the Touchstone Money Market Fund.

(e) Touchstone will cap total annual operating expenses of the Touchstone Money Market Fund Class I shares at 0.28% of average daily net assets through December 31, 2005 and Class SC shares at 0.54% of average daily net assets for at least two years from the date of the Substitution.

(f) All contract owners will be given notice of the Substitutions prior to the Substitutions and will have an opportunity for 30 days after the Substitutions to reallocate accumulation value among other available subaccounts without the imposition of any transfer charge or limitation and without being counted as one of the contract owner's free transfers in a contract year.

(g) Within five days after the Substitutions, the Insurance Companies will send to its affected contract owners written confirmation that the Substitutions have occurred.

(h) For those contract owners who are contract owners on the date of the Substitutions, the Insurance Companies will not increase Separate Account or Contract fees and expenses for a two-year period beginning on the date of the Substitutions.

(i) The Substitutions will in no way alter the insurance benefits to contract owners or the contractual obligations of the Insurance Companies.

(j) The Substitutions will have no adverse tax consequences to contract owners and will in no way alter the tax benefits to contract owners.

Conclusion

Applicants assert that for the reasons summarized above, the requested order approving the Substitution should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16517 Filed 6–30–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48064; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Granting Approval of Plan and Amendment No. 1 Thereto for Allocation of Regulatory Responsibilities Between the National Association of Securities Dealers, Inc. and the International Securities Exchange, Inc.

June 19, 2003.

On January 7, 2003, the National Association of Securities Dealers, Inc. (''NASD'or ''Association'') and the International Securities Exchange, Inc. (''ISE'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a plan, pursuant to Section 17(d) of the Securities Exchange of 1934 (''Act'')[1] and Rule 17d–2 thereunder,[2] for allocation of regulatory responsibilities relating to options-related sales practices.[3] On May 1, 2003, NASD and ISE filed Amendment No. 1 to the plan.[4] The regulatory responsibilities transferred to the NASD under this plan, as amended, for common members of the ISE and NASD are all the regulatory responsibilities initially allocated to the ISE under a 17d–2 plan for allocating regulatory responsibilities with respect to options-related sale practices executed by several SROs that was approved by the Commission.[5]

The plan, including Amendment No. 1, was published for comment on May 21, 2003.[6] The Commission received no comments on the plan. This order approves the plan, as amended. Accordingly, the NASD shall assume, in addition to the regulatory responsibilities it already has under the Act, the regulatory responsibilities allocated to it under the plan, as amended. At the same time, the ISE is relieved of those regulatory responsibilities allocated to the NASD.

I. Introduction

Section 19(g)(1) of the Act,[7] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to section 17(d) or 19(g)(2) of the Act.[8] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate

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[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), SEC, dated January 6, 2003.

[4] See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division, SEC, dated April 30, 2003. Amendment No. 1 deleted paragraphs 5.1 and 5.2 of the plan filed on January 7, 2003.

[5] *See* Securities Exchange Act Release No. 46800 (November 8, 2002), 67 FR 69774 (November 19, 2002).

[6] *See* Securities Exchange Act Release No. 47871 (May 14, 2003), 68 FR 27869 (May 21, 2003).

[7] 15 U.S.C. 78s(g)(1).

[8] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2).

unnecessary multiple examinations and regulatory duplication.[9] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[10] Rule 17d–1, adopted on April 20, 1976,[11] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[12] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

[9] 15 U.S.C. 78q(d). *See also* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[10] 17 CFR 240.17d–1 and 17 CFR 240.17d–2.

[11] *See* Securities Exchange Act Release No. 12352, 41 FR 18809 (May 3, 1976).

[12] *See* Securities Exchange Act Release No. 12935, 41 FR 49093 (November 8, 1976).

II. Discussion

The Commission finds that the proposed plan is consistent with the factors set forth in Section 17(d) of the Act[13] and Rule 17d–2(c)[14] in that the proposed plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system. In particular, the Commission believes that the proposed plan is an achievement of cooperation between the ISE and NASD which will reduce unnecessary regulatory duplication by allocating to NASD certain responsibilities related to options-related sale practice regulation for members that belong to both the ISE and NASD. Furthermore, because the ISE and NASD will coordinate their regulatory functions in accordance with the plan, the plan will promote investor protection.

III. Conclusion

This order gives effect to the plan, as amended, filed with the Commission that is contained in File S7–966. The parties shall notify all members affected by the plan, as amended, of their rights and obligations under the amended plan.

It Is Therefore ordered, pursuant to Sections 17(d)[15] and 11A(a)(3)(B)[16] of the Act, that the plan of the ISE and NASD, as amended, filed pursuant to Rule 17d–2,[17] is approved.

It Is Therefore ordered that the ISE is relieved of those responsibilities allocated to NASD under the plan, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16522 Filed 6–30–03; 8:45 am]

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[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] 15 U.S.C. 78q(d).

[16] 15 U.S.C. 78k-1(a)(3)(B).

[17] 17 CFR 240.17d–2.

[18] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48080; File No. SR–BSE–2003–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange Relating to an Extension of a Temporary Exemption Concerning an Interpretation of Its Execution Guarantee Rule

June 24, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 16, 2003, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons and to grant accelerated approval retroactively to June 5, 2003.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend a temporary exemption related to an interpretation of its Execution Guarantee Rule in response to Commission action regarding *de minimis* trades through of certain Exchange Traded Funds (''ETFs'') in the Intermarket Trading System (''ITS'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend a temporary exemption granted to the Exchange regarding an Interpretation of its Execution Guarantee Rule in response to Commission action concerning *de minimis* trades through of certain ETFs in ITS.

The Exchange's original rule proposal in this matter was filed in response to a Commission order issued August 28, 2002, granting a *de minimis* exemption for transactions in certain ETFs from the Trade-Through Provisions of the ITS Plan (''Order'').[3] As of the implementation date of the Order, September 4, 2002, certain executions that took place according to the Rules of the Exchange would have been deemed violative of the provisions thereof.[4] On September 9, 2002, the Exchange requested, and was subsequently granted, a thirty day implementation of a proposed rule, which would allow the Exchange to not enforce a specific provision of its rules relating to trade-through protection for certain securities.[5] The Commission granted this temporary exemption for a period of thirty days, set to expire October 3, 2002, and the exemption was subsequently extended to June 4, 2003.[6] The Exchange is now seeking to extend the period of the effectiveness of the Commission's order until March 4, 2004, consistent with a recent order extending the overall ETF *de minimis* exemption until that date.[7] The Exchange has requested that the proposed rule be effective retroactively to June 5, 2003, to avoid a lapse of the previous exemptions.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act[8] and furthers the objectives of Section 6(b)(5),[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, in that it is designed to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to the file number in the caption above and should be submitted by July 22, 2003.

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule is consistent with the requirements of Section 6(b)(5) of the Act[11] because it is designed to facilitate transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of the publication of notice thereof in the **Federal Register**, and for granting approval retroactively to June 5, 2003, the date of the Commission's extension of the ITS exemption. The Commission believes that by extending the Exchange's proposed exemption for its members, the Exchange removes the specialist's obligation to provide trade-through protection in situations where it will not be permitted to seek satisfaction through ITS from the primary market.

This obligation was one the BSE assumed voluntarily in order to make its market more attractive to sources of order flow, not an obligation the Act imposes on a market. The Commission believes that the business decision to potentially forego order flow by no longer providing print protection is a judgment the Act allows the BSE to make.[12]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–BSE–2003–11) is approved on an accelerated basis and is effective retroactively to June 5, 2003.

[3] *See* Securities Exchange Act Release No. 46428 (August 28, 2002), 67 FR 56607 (September 4, 2002). Pursuant to this Release, participants of the ITS Plan were exempt from Section 8(d) of the Plan, for the period of September 4, 2002 until June 4, 2003, with respect to transactions in QQQs, DIAMONDs, and SPDRs, that are executed at a price that is no more than three cents lower than the highest bid displayed in CQS and no more than three cents higher than the lowest offer displayed in CQS.

[4] Chapter II, *Dealings on the Exchange,* Section 33, *Execution Guarantee,* of the BSE Rules paragraph (c)(2) states that ''[a]ll agency limit orders will be filled if one of the following conditions occur * * * (2) there has been price penetration of the limit in the primary market * * *.'' There are similar provisions in various sections of Chapter XV, *Dealer Specialists.* These provisions, in particular those set forth in Chapter II, guarantee that a limit order in a BSE specialist's book will be filled if the primary market trades through the limit price. When the BSE specialist provides this trade-through protection to its customer limit orders, he is permitted to seek relief through ITS.

[5] *See* Securities Exchange Act Release No. 46482 (September 10, 2002), 67 FR 58662 (September 17, 2002) (SR–BSE–2002–13).

[6] *See* Securities Exchange Act Release No. 46651 (October 11, 2002), 67 FR 64669 (October 21, 2002) (SR–BSE–2002–18).

[7] *See* Securities Exchange Act Release No. 47950 (May 30, 2003), 68 FR 33748 (June 5, 2003).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] In approving this rule proposal, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] The Commission notes that the BSE's proposed rule change will remain in effect only until the expiration of the extension of Commission's ITS Exemption Order on March 4, 2004.

[13] 15 U.S.C. 78f(b)(2).

[14] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16520 Filed 6–30–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48078; File No. SR–NASD–2003–72]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. to Reduce the Non-Directed Order Maximum Response Time for Order-Delivery ECNs in Nasdaq's SuperMontage System

June 24, 2003.

On April 14, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] to reduce, from 30 seconds to 7 seconds, the maximum time allowed for Nasdaq's National Market Execution System (''NNMS'') Order-Delivery Electronic Communications Networks (''Order-Delivery ECNs'') to respond to non-directed orders sent to them by Nasdaq's SuperMontage system (''SuperMontage''). On May 15, 2003, Nasdaq submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published in the **Federal Register** on May 23, 2003.[4] The Commission received no comments on the proposed rule change. This order approves the proposed rule, as amended.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[5] Specifically, the Commission believes that the proposal is consistent with Section 15A(b)(6) of the Act,[6] which requires, among other things, that the rules of an association promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest.

The Commission believes that, given Nasdaq's recent analysis of ECN responsiveness, which indicates that the average response-time across all ECNs participating in SuperMontage is less than one quarter of a second, reducing the maximum time period for Order-Delivery ECNs to respond to non-directed orders from 30 seconds to 7 seconds should give market participants a sufficient amount of time to respond to orders sent through SuperMontage.[7] Nasdaq noted that the current 30-second response time in some cases could inappropriately delay the processing of orders. The Commission believes that the 7-second maximum response time is appropriate to give ECNs ample time to execute non-directed orders sent to them, and to allow other market participants to more swiftly retrieve and execute orders originally dispatched to non-responsive ECNs, thereby helping Nasdaq to facilitate faster executions in SuperMontage. Further, the Commission notes that Nasdaq has represented that it will continue to monitor ECN responsiveness to delivered orders in SuperMontage and propose additional modifications if warranted.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NASD–2003–72), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16519 Filed 6–30–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 15, 2003 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 47883 (May 16, 2003), 68 FR 28312.

[5] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78o–3(b)(6).

[7] In its filing with the Commission, Nasdaq noted that the 30-second time period contained in the current rule resulted, in part, because of concerns raised by commenters in response to Nasdaq's proposal to implement SuperMontage. Nasdaq had originally proposed a 7-second response time, but commenters expressed concerns about past Nasdaq system issues related to the delivery of messages to market participants. Therefore, Nasdaq amended its proposal and extended the response time to thirty seconds. *See* Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001) (approving SR-NASD–99–53). Nasdaq now represents that, based upon SuperMontage's performance to date, such concerns are no longer valid and a 7 second response time is appropriate.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48079; File No. SR–NASD–2003–94]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Technical Amendments to Rule 2210

June 24, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2003, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 2210 to reinsert certain existing rule language that was inadvertently omitted from amendments to NASD Rule 2210 that the Commission recently approved. The text of the proposed rule change is available at the Office of the Secretary, NASD, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 9, 2003, the Commission approved amendments to NASD Rule 2210 and the Interpretive Materials that follow NASD Rule 2210, and the creation of new NASD Rule 2211, all of which govern member communications with the public (the ''Advertising Modernization Rule Change'').[4] The Advertising Modernization Rule Change becomes effective on November 3, 2003. Among other things, the Advertising Modernization Rule Change revised paragraph (c) of NASD Rule 2210, which addresses member filing requirements and NASD review procedures for member communications with the public. However, the proposed rule filing failed to include current NASD Rule 2210(c)(3), which sets forth the filing and NASD review procedures for member sales literature that includes bond mutual fund volatility ratings.

The Advertising Modernization Rule Change was initially filed with the Commission on March 15, 2000, shortly after the Commission had approved the proposed rule change that included current NASD Rule 2210(c)(3).[5] Because of the close proximity of the Commission's approval of the bond mutual fund volatility rule and the initial filing of the Advertising Modernization Rule Change, the language of current NASD Rule 2210(c)(3) was inadvertently omitted from the Advertising Modernization Rule Filing. This omission of current NASD Rule 2210(c)(3) was unintentional, as NASD does not intend to rescind the NASD Rule 2210 provisions governing bond mutual fund volatility ratings.[6]

The purpose of this filing is to reinsert the language of current NASD Rule 2210(c)(3) concerning the filing and review requirements for member sales literature that contains bond mutual fund volatility ratings. The reinserted rule language is the same as the language used in current NASD Rule 2210(c)(3), other than certain minor, non-substantive changes. In this regard, the new language adds a heading prior to the paragraph, uses ''NASD'' rather than ''the Association'' to refer to NASD,[7] and clarifies that members must file sales literature that includes bond mutual fund volatility ratings at least 10 business days prior to the date of first use of the sales literature. These changes are consistent with changes made to other paragraphs of NASD Rule 2210 under the Advertising Modernization Rule Change. In addition, this rule filing renumbers paragraphs (c)(3) through (c)(9) as paragraphs (c)(4) through (c)(10), and corrects certain paragraph cross-references.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest. NASD believes that reinserting the language of current Rule 2210(c)(3) that was inadvertently omitted from the Advertising Modernization Rule Change is consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation believes that the proposed rule change would not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[9] and paragraph (f)(6) of Rule 19b–4 thereunder.[10] Consequently, because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty days from the date on which it was filed or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and text of the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. However, this proposed rule change does not alter the November 3, 2003 effective date of the Advertising Modernization Proposed Rule Change that the Commission approved on May 9, 2003.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by July 22, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16521 Filed 6–30–03; 8:45 am]

BILLING CODE 8010–01–P

[4] *See* Securities Exchange Act Release No. 47820 (May 9, 2003), 68 FR 27116 (May 19, 2003) (SR–NASD–00–12).

[5] *See* Securities Exchange Act Release No. 42476 (February 29, 2000), 65 FR 12305 (March 8, 2000) (SR–NASD–97–89).

[6] In this regard, the Advertising Modernization Rule Change does not amend NASD Interpretive Material 2210–5, which governs members' use of bond mutual fund volatility ratings.

[7] NASD is in the process of amending NASD Rule 0120(j) to make clear that the term ''NASD'' refers collectively to NASD, NASD Regulation, Nasdaq, and NASD Dispute Resolution. *See* Amendment No. 1 to SR–NASD–2003–75.

[8] 8 15 U.S.C. 78o-3(b)(6).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 200.30–3(a)(12).

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed priorities; request for public comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2004.

DATES: Public comment should be received on or before August 1, 2003.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs-Priorities Comment.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

For the amendment cycle ending May 1, 2004, and possibly continuing into the amendment cycle ending May 1, 2005, the Commission has identified the following tentative priorities:

(1) Implementation of the PROTECT Act, Public Law 108–21, including guideline amendments addressing the directives to the Commission in (A) section 401 pertaining to downward departures; (B) sections 401, 504, 512, and 513 pertaining to new and existing sex offenses and offenses involving virtual pornography; and (C) section 608 pertaining to increased penalties for offenses involving the trafficking of GHB;

(2) consideration and implementation of recommendations made by the Commission's Organizational Guidelines Advisory Group;

(3) consideration and implementation of recommendations made by the Commission's Native American Advisory Group;

(4) continuation of its work implementing the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107–273, including guideline amendments pertaining to (A) assaulting or threatening federal judges or other officials described in 18 U.S.C. 111 or 115; and (B) a new offense, at 18 U.S.C. 931, prohibiting violent felons from purchasing, owning, or possessing body armor;

(5) consideration of guideline amendment proposals related to the public corruption guidelines in Chapter Two, Part C (Offenses Involving Public Officials);

(6) continuation of its work on the 15 Year Study, which is composed of a number of projects geared toward analyzing the guidelines in light of the goals of sentencing reform described in the Sentencing Reform Act and the statutory purposes of sentencing set forth in 18 U.S.C. 3553(a)(2);

(7) continuation of its policy work related to manslaughter, particularly consideration of guideline amendment proposals providing specific offense characteristics in section 2A1.4 (Involuntary Manslaughter);

(8) continuation of its policy work related to immigration offenses, including offenses under sections 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) and 2L1.2 (Unlawfully Entering or Remaining in the United States);

(9) consideration of guideline amendment proposals pertaining to compassionate release programs;

(10) other miscellaneous and limited issues pertaining to the operation of the sentencing guidelines, including (A) offenses involving the unlawful sale or transportation of drug paraphernalia; and (B) offenses involving the receipt or possession of stolen mail;

(11) implementation of other crime legislation enacted during the first session of the 108th Congress warranting a Commission response;

(12) review of the limitation on the base offense level (*i.e.*, not more than level 30) provided in subsection (a)(3) of section 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit these Offenses); Attempt or Conspiracy); and

(13) continuation of its multiyear research, policy work, and possible guideline amendments relating to Chapter Four (Criminal History and Criminal Livelihood), which may include (A) assessment of the calculation of criminal history points for first time offenders and offenders who are in the highest criminal history categories; (B) assessment of the criminal history rules for minor offenses, juvenile offenses, and expunged convictions; (C) assessment of the criminal history rules for related cases; and (D) consideration of other application issues relating to simplifying the operation of Chapter Four.

The Commission hereby gives notice that it is seeking comment on these tentative priorities and on any other issues that interested persons believe the Commission should address during the amendment cycle ending May 1, 2004, including short- and long-term research issues. To the extent practicable, comments submitted on such issues should include the following: (1) A statement of the issue, including scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to a proposed priority; (2) citations to applicable sentencing guidelines, statutes, case law, and constitutional provisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

Authority: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

Diana E. Murphy,

Chair.

[FR Doc. 03–16574 Filed 6–30–03; 8:45 am]

BILLING CODE 2211–01–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of issues for comment on PROTECT Act and request for comment.

SUMMARY: The Commission requests comment regarding how it might best implement the directive in section 401(m) of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, Public Law 108–21 (the ''PROTECT Act''). Specifically, the directive instructs the Commission to reform the existing permissible grounds of downward departures. The Commission welcomes any comments and suggestions for how the Commission might restructure or otherwise amend the guidelines to accomplish this directive.

DATES: Public comment should be received on or before August 1, 2003.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs-Public Comment.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a) and sometimes pursuant to other specific statutory authority. The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

Rule 4.4 of the Commission's Rules of Practice and Procedure provides that, with respect to proposed amendments and issues for comment, the Commission shall, ''to the extent practicable, provide a minimum period of public comment of at least 60 calendar days prior to final Commission action.'' Because section 401(m) of the PROTECT Act requires the Commission to promulgate amendments implementing the directive regarding downward departures from the sentencing guidelines not later than 180 days after the date of enactment of the PROTECT Act (*i.e.*, not later than October 27, 2003), it is not practicable to provide a comment period of at least 60 days on the following issues for comment. Accordingly, the Commission voted at its public meeting on June 24, 2003, to provide a comment period until August 1, 2003, in order to allow the Commission sufficient time to develop guideline amendments that implement the directive in section 401(m) of the PROTECT Act.

Authority: 28 U.S.C. 994(a), (o); section 401 of the PROTECT Act, Pub. L. 108–21; and USSC Rules of Practice and Procedure 4.4.

Diana E. Murphy,
Chair.

Issues for Comment

Section 401(m) of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, Public Law 108–21 (the ''PROTECT Act''), directs the Commission as follows:

(m) REFORM OF EXISTING PERMISSIBLE GROUNDS OF DOWNWARD DEPARTURES.—Not later than 180 days after the enactment of this Act, the United States Sentencing Commission shall—

(1) Review the grounds of downward departure that are authorized by the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission; and

(2) Promulgate, pursuant to section 994 of title 28, United States Code—

(A) Appropriate amendments to the sentencing guidelines, policy statements, and official commentary to ensure that the incidence of downward departures are substantially reduced;

(B) A policy statement authorizing a downward departure of not more than 4 levels if the Government files a motion for such departure pursuant to an early disposition program authorized by the Attorney General and the United States Attorney; and

(C) Any other conforming amendments to the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission necessitated by this Act, including a revision of paragraph 4(b) of part A of chapter 1 and a revision of section 5K2.0.

The Commission requests comment regarding how it might best implement the directive described above and generally welcomes any comments and suggestions for how the Commission might restructure or otherwise amend the guidelines to accomplish this directive.

In addition, the Commission specifically requests comment on the following:

(1) How should subsection (a) of section 5K2.0 (Grounds for Departure) and/or the commentary to section 5K2.0 (and/or Part A of Chapter One) be revised?

Section 3553(b) of title 18, United States Code, and section 5K2.0(a) authorize the sentencing court to depart downward in cases in which there exists a mitigating factor not adequately taken into consideration by the Commission in formulating the guidelines. Should the Commission provide additional and/or more restrictive guidance on such mitigating factors, particularly those described in other provisions of Chapter Five, Part K, that may warrant a downward departure?

Section 5K2.0(a) also states that ''the court may depart from the guidelines, even though the reason for departure is taken into consideration in determining the guideline range (*e.g.*, a specific offense characteristic or other adjustment), if the court determines that, in light of unusual circumstances, the weight attached to that factor under the guidelines is [inadequate or] excessive.'' Are there factors in Chapter Two (Offense Conduct), Chapter Three (Adjustments), or Chapter Four (Criminal History) to which the Commission has attached excessive weight, and if so, should the Commission change the weight attached to those factors, thereby reducing the likelihood that a departure is warranted in a particular case?

Commentary to section 5K2.0 also states in part that ''[t]he Commission does not foreclose the possibility of an extraordinary case that, because of a combination of [offender] characteristics or [not ordinarily relevant] circumstances, differs significantly from the ''heartland'' cases covered by the guidelines in a way that is important to the statutory purposes of sentencing, even though none of the characteristics or circumstances individually distinguishes the case. However, the Commission believes that such cases will be extremely rare.'' Should this commentary be revised, and, if so, how?

(2) How, if at all, should Chapter Five, Part H be revised?

Should the Commission provide additional and/or more restrictive guidance on the offender characteristics described in provisions of Chapter Five, Part H, that may warrant a downward departure?

Should, for example, the Commission provide additional guidance regarding the circumstances under which an offender characteristic that is ordinarily not relevant in sentencing may become relevant?

(3) How, if at all, should guideline provisions governing downward departures for criminal history be revised? Commission data preliminarily indicate that the over-representation of the defendant's criminal history is a frequent basis for downward departure.

Section 4A1.3 (Adequacy of Criminal History Category) states in part that ''[t]here may be cases where the court concludes that a defendant's criminal history category significantly over-represents the seriousness of a defendant's criminal history or the likelihood that the defendant will commit further crimes. An example might include the case of a defendant with two minor misdemeanor convictions close to ten years prior to the instant offense and no other evidence of prior criminal behavior in the intervening period. The court may conclude that the defendant's criminal history was significantly less serious than that of most defendants in the same criminal history category (Category II), and therefore consider a downward departure from the guidelines.''

Should the Commission provided additional and/or more restrictive guidance in section 4A1.3 regarding the circumstances under which the court may depart for the over-representation of the defendant's criminal history?

(4) Should the Commission provide additional and/or more restrictive guidance for any downward departure authorized in Chapter Two (Offense Conduct) for specific offenses?

(5) Should the Commission provide for a downward adjustment (or, in the case of criminal history, a reduction in criminal history points) in lieu of a downward departure for any factor or downward departure basis, or for a combination of factors and/or downward departures bases, described in paragraphs (1) through (4) above, or for any other mitigating factors the Commission should more fully take into account in the guidelines? If so, how should such a downward adjustment or reduction be structured, and what should be the extent of the downward adjustment or reduction? (Note that section 401(j)(2) of the PROTECT Act prohibits the Commission from adding any new grounds of downward departure to Part K of Chapter Five on or before May 1, 2005.)

(6) Should any of the downward departure bases described in paragraphs (1) through (4) above be prohibited as a basis for downward departure?

Are there other specific suggestions that the Commission might consider to respond to the directive?

Finally, section 401(m)(2) directs the Commission to promulgate a policy statement authorizing a downward departure of not more than 4 levels if the Government files a motion for such departure pursuant to an early disposition program authorized by the Attorney General and the United States Attorney. How should the Commission structure this downward departure?

[FR Doc. 03–16577 Filed 6–30–03; 8:45 am]

BILLING CODE 2211–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.250 (4¼) percent for the July–September quarter of FY 2003.

LeAnn M. Oliver,

Deputy Associate Administrator for Financial Assistance.

[FR Doc. 03–16598 Filed 6–30–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4390]

Office of Visa Services; 60-Day Notice of Proposed Information Collection: Form DS–1884, Petition To Classify Special Immigrant Under INA 203(b)(4) as an Employee or Former Employee of the U.S. Government Abroad; OMB Control Number 1405–0082

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: Extension of currently approved collection.

Originating Office: Bureau of Consular Affairs, Department of State (CA/VO).

Title of Information Collection: Petition To Classify Special Immigrant Under INA 203(b)(4) as an Employee or Former Employee of the U.S. Government Abroad.

Frequency: Once per respondent.

Form Number: DS–1884.

Respondents: Aliens applying for Immigrant Visa under INA 203(b)(4).

Estimated Number of Respondents: 500 per year.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 250 hours per year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information regarding the collection listed in this notice should be directed to Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St. NW., RM L–703, Washington, DC 20520, who may be reached at 202–663–1163.

Dated: June 23, 2003.

Janice L. Jacobs,

Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 03–16592 Filed 6–30–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 4389]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Hudson River School Visions: The Landscapes of Sanford R. Gifford''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the object to be included in the exhibition, ''Hudson River School Visions: The Landscapes of Sanford R. Gifford,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit object at the Metropolitan Museum of Art, New York, New York, from on or about October 7, 2003, to on or about February 8, 2004, the Amon Carter Museum, Fort Worth, Texas, from on or about May 4, 2004, to on or about May 16, 2004, the National Gallery of Art, Washington, DC, from on or about June 27, 2004, to on or about September 26, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these

determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the exhibit object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: June 23, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–16591 Filed 6–30–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4388]

Culturally Significant Objects Imported for Exhibition; Determinations: ''The Crau at Ales: Peach Trees in Flower''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the object to be included in the exhibition, ''The Crau at Ales: Peach Trees in Flower,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit object at the J. Paul Getty Museum, Los Angeles, California, from on or about August 5, 2003, to on or about January 13, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the exhibit object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: June 23, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–16590 Filed 6–30–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2003–15495]

Weight-Based Restrictions at Airports: Proposed Policy

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed policy; request for comments.

SUMMARY: This notice requests comments on a proposed statement of policy on the use of weight-based airport access restrictions as a means of protectign airfield pavement. In grant agreements between an airport operator and the FAA for Federal airport development grants, the airport operator makes certain assurances to the FAA. These assurances include an obligation to provide access to the airport on reasonable, not unjustly discriminatory terms to aeronautical users of the airport. Some airport operators have implemented restrictions on use of the airport by aircraft above a certain weight, to protect pavement not designed for aircraft of that weight. These actions have raised the question of when such an action is a reasonable restriction on use of the airport. In the interest of applyng a uniform national policy to such actions, the FAA is publishing for comment a draft policy on weight-based access restrictions at federally obligated airports.

DATES: Comments must be received by August 15, 2003. Comments that are received after that date will be considered only to the extent possible.

ADDRESSES: The proposed policy is available for public review in the Dockets Office, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. The documents have been filed under FAA Docket Number FAA–2003–15495. The Dockets Office is open between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you, may review public dockets on the Internet at *http://dms.dot.gov.* Comments on the proposed policy must be delivered on mailed, in duplicate, to: the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number ''FAA Docket No FAA–2003–15495'' at the beginning of your comments. Commenters wishing to FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2003–15495.'' The postcard will be date stamped and mailed to the commenter. You may also submit comments through the Internet to *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: James White, Deputy Director, Office of Airport Safety and Standards, AAS–2, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–3053.

SUPPLEMENTARY INFORMATION: Airport operators that accept federal airport development grants under the Airport Improvement Program (AIP), 49 U.S.C. 47101 *et seq.*, enter into a standard grant agreement with the FAA. That agreement contains certain assurances, including assurance no. 22, based on the requirement in 49 U.S.C. 47107(a)(1). Grant assurance no. 22 reads, in part:

> a. [The sponsor] will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

At the same time, the FAA expects that airport sponsors will protect airfield pavement from damage or early deterioration. Many airport projects funded with the AIP grants involve pavement. As a result, both the FAA and airport sponsors have a significant investment in airfield pavement, and an interest in assuring that pavement remains in acceptable condition for its design life, normally at least 20 years. The policy of assuring reasonable access to the airport and the interest in protecting the investment in airfield pavement are both extremely important, but is clear that they can potentially work against each other in a particular case.

In February 2002, the Airports Division in an FAA regional office issued a preliminary determination on the ability of a particular airport operator to limit use of the airport according to aircraft weight. In that case the weight limit effectively prohibited operation by aircraft heavier than the

aircraft considered in the design of the airport's pavement. The FAA found, in summary, that the airport operator could limit use above the design weight of the pavement, but that some operations above that weight could and should be permitted, because they would have no measurable effect on the pavement. The FAA has received several questions relating to the policy underlying that determination.

In view of the importance of the policies at stake, we believe it is appropriate to issue more specific guidance on the specific issue of weight-based access restrictions.

The policy proposed in this notice provides more detailed guidance on how the FAA will interpret Grant Assurance No. 22, in cases in which an airport sponsor limits operation by aircraft above a certain weight in order to preserve the integrity of airport pavement. The FAA requests comment on the following statement of policy, and may modify the policy in accordance with comments received on this notice. For any cases presented before a final policy is issued, the FAA will apply the policy as proposed in this notice.

For the above reasons, the FAA proposes to adopt the following policy:

Operating Limitations to Protect Airport Pavements From the Effects of Operations in Excess of Design Weight-Bearing Capacity

1. When designing new airport pavement or rehabilitating existing pavement, airport operators design the pavement to accommodate the loads and frequencies of the aircraft expected to use the airport over the period of expected pavement life. A load-bearing capacity is then assigned to the pavement based upon the most demanding aircraft. Once that pavement is constructed, airport operators have a responsibility to protect the local and Federal investment in the pavement. At the same time, airport operators are encouraged to upgrade airport pavements for forecast increases in aircraft size or operations, or if the number of operations and size of aircraft increase over time beyond what was forecast.

2. Airport pavements are designed to accommodate a finite number of aircraft operations, based on planning forecasts and experience. In most cases it should not be necessary or appropriate to impose aircraft operating restrictions to protect pavement from occasional operations of aircraft which exceed the published pavement strength. Even in the exceptional case in which the mix of aircraft types using the pavement becomes heavier over time, a limitation on maximum weight of aircraft may not be warranted. It is the nature of airport pavement to begin a gradual deterioration process as soon as it is opened to traffic. A pavement designed for a specified number of operations by an aircraft type of a particular weight will not be immediately affected by some number of operations by heavier aircraft, up to a point. In general, each 10% increase in weight of the most demanding aircraft will decrease the number of design operations by 20–25%. The original load-bearing capacity of pavement may be increased by surface overlays or other pavement rehabilitation techniques. Therefore, some number of operations by aircraft exceeding the design load-bearing capacity of airport pavement by some degree will ordinarily not have a sufficient impact to shorten its useful life. (The Airport/Facility Directory introductory language notes that ''[m]any airport pavements are capable of supporting limited operations with gross weights of 25–50% in excess of the published figures.'').

3. However, where the airport operator reasonably believes that actual damage or excessive wear has resulted or would result from operation of aircraft of a particular weight (and particular gear configurations), then the airport operator can limit those operations to the extent necessary to prevent that damage or excessive wear.

4. The design load-bearing capacity of pavement is a guide to the probability of adverse effects on pavement life. Design load-bearing capacity is demonstrated by planning and engineering documents created at the time the pavement was designed, constructed, rehabilitated or improved. Testing to determine actual load-bearing capacity may be appropriate or necessary where design information is unavailable or does not appear to represent actual current condition of the pavement.

5. Any action by the airport operator to limit operations above the design load-bearing capacity must be reasonable and unjustly discriminatory, and would require evidence of the effect of operations at certain weights on the pavement. Such limitations, if determined to be necessary, could include:

- Requiring particular taxi routes and parking areas for aircraft above a certain weight, to avoid weaker areas;
- Requiring prior permission for operation by aircraft above the design load-bearing capacity of the pavement (see examples in Exhibit 1);
- Permitting operations of such aircraft only up to a certain weight;
- Prohibiting all operations by aircraft exceeding a weight at which even a small number of operations would significantly reduce pavement life.
- Assigning heavy aircraft a particular runway (through agreement with Air Traffic Control) if operationally feasible.

Operating procedures, such as requiring use of designated taxiways and ramp parking areas, are preferable to an outright ban or limit on the number of operations. A limit on the number of operations and/or weight of operations must be based on an analysis of pavement life using known pavement design capacity, actual load-bearing capacity, and actual condition. That analysis can be performed with the AAS–100 Pavement Design Software, based on Advisory Circular (AC) 150/5320–6D, available on the FAA Airports web site. An analysis is also required to assess the load-carrying capacity of existing bridges, culverts, in-pavement light fixtures, and other structures affected by the proposed traffic. Such structures are generally not capable of supporting a single load application above design limits, and may preclude any operations by heavier aircraft unless other taxi routes can be specified. Guidance for those evaluations is stated in AC 150/5320–6D.

6. The airport operator may avoid any issue of reasonable, nondiscriminatory access to the airport by accommodating current operations and bringing pavement up to the standard for the current use of the airport as the condition of the pavement requires.

7. This policy applies only to pavement weight-bearing capacity and pavement condition, and does not apply to geometric airport design standards.

8. This policy applies only to the purpose of protecting an airport operator's investment in pavement, and is not a substitute for noise restrictions. If there is no showing of need to protect pavement life, or the limit on airport use appears motivated by interest in mitigating noise without going through processes that exist for such restrictions, an attempt to limit aircraft by weight will be considered unreasonable. The FAA notes that there are a few existing noise rules that include weight categories, generally adopted before ANCA and the AAIA were enacted. Issues arising under those rules will be addressed on a case-by-case basis.

Examples

Airport operators may experience demand for use of the airport by aircraft that weigh more than the design load-bearing capacity of the airport

pavement. In some cases that demand can adversely affect pavement condition. Ideally the airport operator should accommodate demand by upgrading facilities. If that option is not practical, the airport operator can permit reasonable access by these aircraft, while avoiding adverse effects on existing pavement, by regulating the number and maximum weight of operations on a prior-permission-required basis. The number and maximum weight of operations permitted would vary according to the specific circumstances at each airport, including:

- Pavement load-bearing capacity.
- The mix of aircraft operating at the airport. The heavier the aircraft, the fewer operations it takes to have an effect on pavement life.
- Seasonal effects on pavement strength, for example wet or dry subgrade conditions or very low or high pavement temperatures.

The following scenarios are not recommendations but simply examples of limitations that might be appropriate in particular circumstances. Local conditions may require more complex solutions. An engineering analysis will be required in each case.

Scenario 1

The airport pavement is designed to 60,000 lb. dual-wheel load. Pavement design and soil support conditions are known. Operations up to 60,000 lb. are unrestricted, and the issue is how many flights should be permitted above that weight.

The airport receives frequent operations by several aircraft types at 70,000 lb., and occasional operations at 105,000 lb., but very few operations by other aircraft types in between those weights.

Reference to AC 150/5320–6D shows that on an annual basis up to xxxx operations at 70,000 lb. and xx operations at 105,000 lb. together would have no measurable effect on the life of the pavement, but more operations at either weight would begin to shorten pavement life.

The operator could require prior permission for operations above 60,000 lb. Permission would be granted on a first-come first-served basis, for xx (xxxx/52) operations per week up to 70,000 lb. and for x (xx/52) operations per week up to 110,000 lb.

Scenario 2

The airport pavement is designed to 100,000 lb., with dual-wheel gear configuration. Pavement design and soil support conditions are known.

Most operations at the airport are well under 100,000 lb., but the airport receives regular operations by various types of aircraft at weights from 100,000 lb. up to 135,000 lb. Operations up to 100,000 lb. are unrestricted, and the issue is how many flights should be permitted above that weight.

Reference to AC 150/5320–6D shows that on an annual basis various assortments of operations above 100,000 lb. can operate without measurable effect on the life of the pavement. However, there is no single ''right'' combination, because more operations at one weight will reduce the number that can be permitted at another weight. Also, each flight at the heavier end of the scale, e.g., 135,000 lb., has a disproportionately adverse effect equal to several flights at the lower end of the scale, e.g., just above 100,000 lb.

There may be many ways to allocate limited operating rights for the various types of aircraft that would use the airport over time, while controlling the maximum cumulative stress on the airport's pavement. One way would be to allocate operating permission by ''points'' rather than by number of operations. While the numbers actually used would need to be validated using AC 150/5320–6D, something like the following could be used:

Each operation 100,001 lb. to 110,000 lb.; 1 point.

Each operation 110,001 lb. to 120,000 lb.; 2 points.

Each operation 120,001 lb. to 130,000 lb.; 4 points.

Each operation 130,001 lb. to 140,000 lb.; 6 points.

If AC 150/5320–6D indicated that no combination of operations equal to an annual usage of 1200 points would have an adverse effect on pavement life, then the airport operator could allocate 23 points a week with no adverse effects.

The operator would require prior permission for operations above 100,000 lb. Permission would be granted on a first-come first-served basis, until the weekly allocation of points was assigned.

Issued in Washington, DC on June 20, 2003.

David L. Bennett,

Director, Airport Safety and Standards.

[FR Doc. 03–16462 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DEPARTMENT OF INTERIOR

National Park Service

Membership in the National Parks Overflights Advisory Group

AGENCIES: National Park Service and Federal Aviation Administration.

ACTION: Notice.

SUMMARY: By **Federal Register** notice published on April 28, 2003, the National Park Service (NPS) and the Federal Aviation Administration (FAA), asked interested persons to apply to fill a vacant position representing aviation interests on the National Parks Overflights Advisory Group (NPOAG). This notice informs the public of the person selected to fill that vacancy on the NPOAG.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, Executive Resource Staff, Western Pacific Region Headquarters, 15000 Aviation Blvd., Hawthorne, CA 90250, telephone: (310) 725–3800, Email: *Barry.Brayer@faa.gov,* or Howie Thompson, Natural Sounds Program, National Park Service, 12795 W. Alameda Parkway, Denver, Colorado, 80225, telephone: (303) 969–2461; Email: *Howie_Thompson@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator and the Director (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title [the Act] and the amendments made by this title;

(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) at the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Changes in Membership

To maintain the balanced representation of the group, the FAA and the NPS recently published a notice in the **Federal Register** asking interested person to apply to fill a vacancy representing aviation interests on the NPOAG. The vacancy was created by the resignation of Mr. Joseph Corrao, Helicopter Association International. The person selected to fill that vacancy is Mr. Richard Larew, Executive Vice President, Era Aviation, Inc., and also Chairman of the Helicopter Association International Tour Operators Committee.

Issued in Washington, DC on June 24, 2003.

John M. Allen,

Acting Director, Flight Standards Service.

[FR Doc. 03–16559 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 03–04–C–00–BIS To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Bismarck Municipal Airport, Bismarck, North Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Bismarck Municipal Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 31, 2003.

ADDRESSES: Comment on this application may be mailed or delivered in triplicate to the FAA at the following address: Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504.

In addition, one copy of any comments submitted tot he FAA must be mailed or delivered to Mr. Gregory Haug, Airport Manager of the City of Bismarck, North Dakota at the following address: Bismarck Municipal Airport, PO Box 991, Bismarck, North Dakota 58502.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Bismarck under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas T. Schauer, Program Manager, Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504, (701) 323–7380. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invite public comment on the application to impose and use the revenue from a PFC at Bismarck Municipal Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 6, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Bismarck was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 6, 2003.

The following is a brief overview of the application.

Proposed charge effective date: March 1, 2004.

Proposed charge expiration date: September 30, 2014.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $5,709,285.

Brief description of proposed projects: Filing of Wetlands in Northwest Quadrant of the Airport, Rehabilitate Taxiways C and D, Update Airport Layout Plan, Expand General Aviation Ramp, New Terminal Area Development Project, Plans and Specifications for CY 2005 Construction, Taxiway C Rehabilitation and Corner Extension, Plans and Specifications for CY 2006 Construction, Purchase Two Plow Trucks, Master Plan Update, PFC Application Preparation. Class or classes of air carriers, which the public agency has requested, not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31, except commuter air carriers.

Any person may inspect the application in person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT.

In addition, any person, upon request, may inspect the application, notice and other documents germane to the application in person at the City of Bismarck—Bismarck Municipal Airport.

Issued in Des Plaines, Illinois on June 23, 2003.

Robert A. Huber,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 03–16554 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 03–9–U–00–MKE To Use the Revenue From a Passenger Facility Charge (PFC) at General Mitchell International Airport, Milwaukee, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at General Mitchell International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 31, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. C. Barry Bateman, Airport Director of the General Mitchell International Airport, Milwaukee, Wisconsin at the following address; 5300 S. Howell Avenue, Milwaukee, Wisconsin 53207–6189.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Milwaukee under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450, 612–713–4363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at General Mitchell International Airport under the provisions of the 49 U.S.C. 40117 and

Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 9, 2003 the FAA determined that the application to use the revenue from a PFC submitted by Country of Milwaukee was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 6, 2003.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Actual charge effective date: December 1, 2011.

Proposed charge expiration date: May 1, 2015.

Total estimated PFC revenue: $1,474,500.

Brief description of proposed projects: Outer Taxiway.

Extension, International Arrival Building Ramp Expansion.

Class or classes of air carriers, which the public agency has requested, not be required to collect PFCs: FAR Part 135 Air Taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Milwaukee.

Issued in Des Plaines, Illinois on June 23, 2003.

Robert A. Huber,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 03–16553 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request For Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on April 25, 2003 (68 FR 20426).

DATES: Comments must be submitted on or before July 31, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Debra Steward, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On April 25, 2003, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 68 FR 20426. FRA received no comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Operating Rules.

OMB Control Number: 2130–0035.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): N/A.

Abstract: The collection of information is due to the railroad operating rules set forth in 49 CFR part 217 which require Class I and Class II railroads to file with FRA copies of their operating rules, timetables, and timetable special instructions, and subsequent amendments thereto. Class III railroads are required to retain copies of these documents at their systems headquarters. Also, 49 CFR 220.21(b) prescribes the collection of information which requires railroads to retain one copy of their current operating rules with respect to radio communications and one copy of each subsequent amendment thereto. These documents must be made available to FRA upon request.

Annual Estimated Burden Hours: 766,428 hours.

Title: Rear-End Marking Devices.

OMB Control Number: 2130–0523.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): N/A.

Abstract: The collection of information is set forth under 49 CFR part 221 which requires railroads to furnish a detailed description of the type of marking device to be used for the trailing end of rear cars in order to ensure rear cars meet minimum standards for visibility and display. Railroads are required to furnish a certification that the device has been tested in accordance with current ''Guidelines for Testing Rear End Marking Devices.'' Additionally, railroads are required to furnish detailed test records which include the testing organizations, description of tests, number of samples tested, and the test results in order to demonstrate compliance with the performance standard.

Annual Estimated Burden Hours: 4 hours.

Title: Bridge Worker Safety Rules.

OMB Control Number: 2130–0535.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): N/A.

Abstract: Section 21039 of Title 49 of the United States Code required FRA to issue rules, regulations, orders, and standards for the safety of maintenance-

of-way employees on railroad bridges, including for ''bridge safety equipment'' such as nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water. FRA has added 49 CFR part 214 to establish minimum workplace safety standards for railroad employees as they apply to railroad bridges. Specifically, section 214.15(c) establishes standards and practices for safety net systems. Safety nets and net installations are to be drop-tested at the job site after initial installation and before being used as a fall protection system, after major repairs, and at six-month intervals if left at one site. If a drop-test is not feasible and is not performed, then a written certification must be made by the railroad or railroad contractor, or a designated certified person, that the net does comply with the safety standards of this section. FRA and State inspectors use the information to enforce Federal regulations. The information that is maintained is at the job site promotes safe bridge worker practices.

Annual Estimated Burden Hours: 1 hour.

Addressee: Send comments regarding any of these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on June 25, 2003.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 03–16558 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Designation of Repair Locations

In accordance with Part 232 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for designating repair locations as prescribed in § 232.15 (g).

The Canadian Pacific Railway Company

[Docket Number FRA–2002–13651]

Pursuant to 49 CFR 232.17, the Canadian Pacific Railway Company (CP), on behalf of their Soo Line Railroad Subsidiary, seeks FRA's approval to designate locations on their Soo Line property where brake system repairs will be performed, as prescribed in § 232.15(g) of the Federal Regulations, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment.* CP has identified the following sites as the designated repair locations:

Location	Milepost/ Subdivision	Distance	Facility
St. Paul Service Area			
Harvey, ND	MP 396.5, Portal Sub	152.5 mi from Portal	Repair track.
Enderlin, ND	MP 257.3, Carrington Sub	139.2 mi. from Harvey	Road truck.
Thief River Falls, MN	MP 307.4, Detroit Lakes Sub	79.1 mi. from Noyes	Road truck.
Glenwood, MN	MP 120.3, Elbow Lake Sub	137.1 mi. from Enderlin	Road truck.
St. Paul Yard, MN	MP 0, Merriam Park Sub	127.5 mi. froM Glenwood	Repair track.
Chicago Service Area			
Lacrosse, WI	MP 281.2, Tomah Sub	130.6 mi. from St. Paul	Road truck.
Portage, WI	MP 178.2, Tomah Sub	103 mi. from Lacrosse	Road truck.
Milwaukee, WI	MP 85.4, Watertown Sub	92.8 mi. from Portage	Repair track.
Bensenville, IL	MP 15.5, Elgin Sub	104.8 mi. from Milwaukee	Repair track
Latta, IN	MP 204.2, Latta Sub	131.7 mi. from Louisville	Road truck.

CP states that all repair track locations will have full-time qualified car men on duty and these locations will be equipped with yard air plants, jacking pads and single car test devices. They may not be enclosed repair shops. All road truck locations are serviced regularly by qualified car men with fully equipped repair trucks that include compressors, jacks, and single car test devices. These locations may or may not have jacking pads. All of the above locations have tracks that are readily and safely accessible for the car men to make repairs. All locations are commonly serviced by through trains, reducing the need for additional switching and the related hazards. All locations can make repairs to most part 215, 231 and 232 defects to include performing single car air tests. All road truck locations are in reasonable proximity to their home base, which will accommodate the availability of material, effective and timely repair, and accessibility in adverse weather conditions. Furthermore, designating the above locations as the repair locations will not diminish CP's ability to effect emergency repairs at other locations, where cars cannot be safely moved to a designated location, including, but not limited to, cars set off as a result of wayside inspections and trackside warning detectors.

Pursuant to 49 CFR 232.17, CP affirms that a copy of their petition to designate the above locations as their repair locations has been provided to the following labor organizations that represent the employees working for the CP: Brotherhood of Railway Carmen, Brotherhood of Locomotive Engineers and the United Transportation Union.

Interested parties are invited to submit written comments to FRA. All written communications concerning this petition should identify the appropriate

docket number (*e.g.*, Docket Number FRA–2002–13651) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Comments received within 30 days of the date of this notice will be considered by FRA before any final action is taken. Although FRA does not anticipate scheduling a public hearing in connection with these proceedings, if any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.).

All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site *http://dms.dot.gov* . Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) at http://dms.dot.gov.

Issued in Washington, DC on June 24, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–16557 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Farmrail System, Incorporated (Waiver Petition Docket Number FRA–2001–9998)

The Farmrail System owns three passenger coaches which were built in 1954–56. These coaches are not used in regular service but only on a limited seasonal basis primarily in conjunction with the Oklahoma Tourism and Recreation Department's resort and conference center located at Quartz Mountain State Park.

The cars operate on trackage owned by the Oklahoma Department of Transportation for which Farmrail acts as lessee-operator. The excursion trains operate from a station near the entrance to Quartz Mountain State Park and run northward around Lake Lugert through a sparsely populated area to Lone Wolf, Oklahoma and back. Farmrail requests relief from the requirements of Title 49 Code of Federal Regulations (CFR) 223.15 Requirements for existing passenger cars due to the infrequent use of the cars, the planned usage for excursion service, and the cost of installing compliant glazing.

The cars are former VIA Rail Canada equipment and have a double-pane combination of ¼-inch thick safety glass inside and plate glass outside. This glazing system remains the standard in Canada for passenger equipment, and the petitioner believes that the operation of these cars, as equipped, would not pose a safety hazard to passengers or employees.

FRA granted Farmrail relief from the requirements of CFR 223.15 to operate their three passenger cars, numbers FMRC 5627, 5478, and 5560, without FRA compliant glazing on a limited basis for a period of five years on May 24, 2002. Subsequent to FRA granting the subject waiver, Farmrail restated the intended area of operation for these excursion/charter trains to include the entire 354 mile System. This is a major modification to the original waiver request. The additional proposed area of operation was not included in the original safety evaluation. Therefore, Farmrail requested reopening of this docket and petitions for the expanded area of operation.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2001–9998) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, NW., Room 7051, Washington, DC 20005.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–16556 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on Transportation Improvements Within the North Corridor in Metropolitan Columbus, Ohio

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) and the Central Ohio Transit Authority (COTA) are issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, an Environmental Impact Statement (EIS) is being prepared for the proposed transportation improvements in the North Corridor and adjacent areas in the City of Columbus and Franklin, and Delaware Counties, within the metropolitan area of Columbus, Ohio.

The EIS will evaluate the following alternatives: a no-build alternative; a transportation system management (TSM) alternative; build alternatives consisting of light rail transit in one of several alignment options combined

with increased bus service in the North Corridor, and any additional reasonable alternatives that emerge from the scoping process. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, and federal, state and local agencies.

The EIS will address the need to improve mobility and reverse-commute access in the corridor, reduce adverse environmental impacts in the region, provide long-term, cost-effective transportation infrastructure and services, and enhance regional economic development.

DATES: *Comment Due Date:* Written comments on the alternatives and impacts to be considered should be sent to Mr. Michael L. Bradley, Director of Rail Development, Central Ohio Transit Authority, 1650 Lake Shore Drive, Suite 300, Columbus, Ohio 43204 by August 15, 2003.

Scoping Meetings: Three public scoping meetings and one interagency scoping meeting will be held. The public scoping meetings will be held on July 22 and 23, 2003. The interagency scoping meeting will be held on July 24, 2003. *See* **ADDRESSES** below for the specific time and place of each meeting.

ADDRESSES: Written comments on the scope of the analysis and the impacts to be considered should be sent by August 15, 2003 to: Mr. Michael L. Bradley, Director of Rail Development, Central Ohio Transit Authority, 1650 Lake Shore Drive, Suite 300, Columbus, OH 43204.

Public Scoping meetings will be held at the following locations:

Tuesday, July 22, 2003 at Rhodes Office Tower, Lobby Hearing Room, 30 East Broad Street, Columbus, Ohio from 8 to 10 a.m. COTA will give a presentation on the proposed action at 8:30 a.m.

Tuesday, July 22, 2003 at St. Stephen's Community House, 1500 17th Avenue, Columbus, Ohio from 6 to 8 p.m. COTA will give a presentation on the proposed action at 6:30 p.m.

Wednesday, July 23, 2003 at North Broadway United Methodist Church, 48 East North Broadway, Columbus, Ohio from 6 to 8 pm. COTA will give a presentation on the proposed action at 6:30 pm.

The appropriate federal, state, and local agency offices will be notified individually about the time and location of the interagency scoping meeting.

The locations of the scoping meetings are accessible to persons with disabilities. Any individual with a disability who requires special assistance to participate in the scoping meetings should contact Mr. Michael L. Bradley, Director of Rail Development, Central Ohio Transit Authority, 1650 Lake Shore Drive, Suite 300, Columbus, Ohio 43204 or should call the project information line at (866) ''RAILCOTA or COTA TDD at (614) 228–1832 available weekdays 8:30 a.m.—5:30 p.m.), or should send an e-mail to *info@cotafasttrax.com* by July 14, 2003 in order for COTA to make necessary arrangements.

FOR FURTHER INFORMATION CONTACT: Ms. Vanessa Adams, Senior Community Planner, Federal Transit Administration, 200 West Adams Street, Suite 320, Chicago, Illinois 60606–5232; phone: (312) 353–2789.

SUPPLEMENTARY INFORMATION: The Federal Transit Administration (FTA), the federal lead agency, in cooperation with the Central Ohio Transit Authority (COTA), the local lead agency, is preparing an Environmental Impact Statement (EIS) for proposed transportation improvements in the North Corridor and adjacent areas. The lead agencies will also seek the cooperation of the Federal Railroad Administration (FRA) and the Mid-Ohio Regional Planning Commission (MORPC), the metropolitan planning organization (MPO) responsible for transportation planning in metropolitan Columbus.

The transportation improvements have been defined through a Major Investment Study (MIS) conducted in 1995 and updated in 2001, which included extensive public outreach and interagency involvement. The MIS is available for public review at the COTA office by contacting Mr. Michael Bradley as described under **ADDRESSES** above. In accordance with the regulations implementing the National Environmental Policy Act (NEPA) of 1969, as amended, the scoping process will be used to determine the alternatives to be considered in detail in the EIS and the impacts of those alternatives to be evaluated. The results of the MIS will not be re-visited unless significant costs or impacts not fully evaluated in the MIS are identified during scoping. FTA and COTA also expect the scoping process to identify alternative design concepts for evaluation. Alternative alignments and designs that meet the project purpose and need as reflected in the regional transportation plan will be addressed in the EIS.

I. Scoping

FTA and COTA invite interested individuals, organizations, and federal, state, and local agencies to participate in defining the alternatives to be evaluated and identifying any significant social, economic and environmental issues related to the alternatives. Comments on the appropriateness of the alternatives and impact-related issues are encouraged. Specific suggestions on additional alternatives to be examined and issues to be addressed are welcomed and will be considered in establishing the final study scope. Comments may be made orally at the meetings or in writing no later than August 15, 2003.

COTA staff will be present at the scoping meetings to describe corridor alternatives, answer questions, and receive comments. Additional opportunities for public participation will be provided throughout the EIS preparation to review findings and results and to solicit comments. Interested persons will be notified of project progress through a continuing community information program and materials distributed to the project mailing list that will include all scoping participants.

II. Description of Study Area and Project Need

The study area for the North Corridor Light Rail Transit project (NCLRT) is located within the metropolitan area of Columbus, Ohio in the City of Columbus and Franklin and Delaware Counties. The transit alternative extends approximately 13 miles between the Franklin/Delaware County line in the Polaris area and downtown Columbus and centered on a path generally parallel to Interstate-71. The northern terminus of the transit study area is the intersection of Flint Road and Lazelle Road at the Franklin and Delaware county line and the southern terminus is the intersection of High Street and Fulton Street in downtown Columbus. The study area is generally bounded on the west by the Olentangy River and State Route 315 and on the east by State Route 3 (Cleveland Avenue/Westerville Road). Because one of the transit alternatives includes the shared use of the CSX Transportation (CSXT) and Norfolk Southern (NS) railroad right-of-way, the study will also evaluate impacts on the regional freight railroad network in Central Ohio.

Most of the corridor is within the urban setting of the City of Columbus, but it also includes the suburban communities of Minerva Park, Riverlea and portions of the cities of Worthington and Westerville. Several major activity centers are located within the corridor and at the northern and southern termini, including cultural sites, entertainment districts, hospitals,

sport stadiums, universities, fairgrounds, a convention center and a regional mall. The remainder of the corridor is primarily residential. Polaris, Crosswoods, Worthington, Easton, and the Short North are mixed use areas with an emphasis on retail and restaurants. The Ohio State House, the Arena District, Theater District, City Center, Science Center and redeveloping Brewery District are major traffic generators in the downtown area. The corridor has two large hospitals, Grant Hospital and the Ohio State University Hospital, serving more than 50,000 patients each year. Three colleges and universities (Ohio State University, Columbus State Community College, and Franklin University) are within the corridor. Four major sports stadiums are also in the corridor, including Ohio Stadium (where Ohio State University plays football), Schottenstein Center for basketball, Columbus Crew Soccer Stadium and Nationwide Arena. Other attractions include the Ohio State Fairgrounds, the Columbus Convention Center, and the Veterans Memorial Hall.

Approximately 233,000 people live in the study area and the population is expected to increase to more than 248,000 by year 2025. The North Corridor has approximately 235,000 jobs, which is one-third of the region's total employment. The number of jobs is expected to increase in the study area to 278,000 by 2025. Due to the population and employment within the North Corridor, COTA's busiest bus route is within the study area, serving approximately 13,000 riders per day in the Ohio State University area. The North Corridor is considered the most congested area in the Columbus metropolitan area.

COTA and MORPC have been working together to address the transportation problems and needs in the Columbus metropolitan area. In 1993, COTA and MORPC completed an update of the long range plan for public transportation in the region, which recommended a series of transit system improvements, including the development of eight fixed guideway transit lines using existing freight rail corridors. As a result of the Long Range System Plan Analysis, the 13-mile North Corridor, extending between the Polaris area and Downtown Columbus generally along Interstate-71, was identified as the priority corridor for fixed guideway transit improvements.

COTA and MORPC conducted a Major Investment Study (MIS) for the North Corridor between 1993 and 1995, with the recommendation to expand bus service as the locally preferred alternative. Following the completion of Vision 2020, a long-range transit plan for central Ohio, in 2001 COTA and MORPC updated the 1995 North Corridor MIS. The MIS update concluded with the selection of a locally preferred alternative comprised of light rail transit and substantial improvements to bus service in the corridor between the Polaris area and Downtown Columbus.

III. Alternatives

The scoping meetings, other community meetings and written comments will be a major source of alternatives for consideration in the EIS. Transportation alternatives proposed for consideration in the North Corridor include:

1.A No-Action Alternative, which is the continuation of existing bus service policies in the study area. Under the No-Action Alternative, increases in service to the year 2025 would track with increases in demand due to population or employment growth in the area, in accordance with current service policies.

2. A Transportation System Management (TSM) Alternative, which focuses on operational and low to medium cost capital improvements to bus transit routes and service in the project area, and attempts to serve the project purpose and need as much as possible without the construction of a new fixed guideway.

3. Build Alternatives comprised of Light Rail Transit (LRT) combined with enhanced bus service. The LRT route extends about 13 miles from the Polaris area to the Columbus Central Business District. From Polaris to about 17th Street, the light rail line is proposed to be located in railroad right-of-way (ROW) parallel to the CSXT Columbus line and NS Sandusky-Columbus rail lines. Street running operations are proposed for the light rail line from the vicinity of 17th Street to Fulton Street in the Downtown. The proposed street running alignments south of 17th Street would be along Summit and/or Fourth Streets with a transition to High Street at Interstate 670. An alternative alignment with street running operations along High Street between approximately 17th Street and Interstate 670 that would more directly serve the Ohio State University campus may also be considered.

Two options are under consideration for the portion of the project that is located in the rail ROW between Polaris and about 17th Street: Under one of the options for the railroad right-of-way, COTA may construct a new freight railroad intermodal facility in Delaware or Union County in the central Ohio area.

Fourteen potential transit stations would be located to serve potential trip generators and in areas where economic development activities are planned or underway. The locations of stations and resulting impacts will be an important area of consideration during the study.

Based on public and agency input received during scoping, variations of the above alternatives and other transportation-related improvement options, both transit and non-transit, may be considered for the North Corridor.

IV. Probable Effects/Potential Impacts for Analysis

The FTA and COTA will evaluate all social, economic and environmental impacts of the alternatives analyzed in the EIS. Impacts may include: Land use, zoning, and economic development; secondary development; cumulative land use impacts; land acquisition, displacements, and relocation of existing uses; historic and archaeological resources; parklands and recreation areas; neighborhoods and communities; environmental justice; air quality; noise and vibration; hazardous materials; ecosystems; water resources; construction impacts; safety and security; utilities; finance; and transportation. Other potential impact issues may be added as a result of scoping and interagency coordination efforts. The proposed impact assessment and evaluation will take into account both positive and negative effects, direct and indirect impacts, short-term (construction) and long-term operational impacts, and cumulative effects. Measures to avoid or mitigate any significant adverse impacts will be developed.

V. FTA Procedures

In accordance with FTA policy, all federal laws, regulations and executive orders affecting project development, including but not limited to the regulations of the Council on Environmental Quality and FTA implementing NEPA (40 CFR parts 1500–1508 and 23 CFR part 771), the Clean Air Act, Section 404 of the Clean Water Act, Executive Orders 11988, 11990 and 12898 regarding floodplains, wetlands, and environmental justice, respectively, the National Historic Preservation Act, the Endangered Species Act, and section 4(f) of the Department of Transportation Act, will be addressed to the maximum extent practicable during the NEPA process.

The Draft Environmental Impact Statement (DEIS) will be circulated to

solicit public and agency comments on the proposed action. Public hearings will be held on the DEIS. Based on the comments received on the DEIS, COTA will take appropriate project actions and prepare the Final EIS, which will identify the preferred alternative. Opportunity for additional public comment will be provided throughout all phases of project development.

Issued on: June 23, 2003.

Joel P. Ettinger,

Regional Administrator.

[FR Doc. 03–16555 Filed 6–30–03; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2003 and ending on December 31, 2003 the prompt payment interest rate is 3.125 per centum per annum.

ADDRESSES: Comments or inquires may be mailed to Eleanor Farrar, Team Leader, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328. A copy of this Notice will be available to download from *http://www.publicdebt.treas.gov*.

DATES: This notice announces the applicable interest rate for the July 1, 2003 to December 31, 2003 period.

FOR FURTHER INFORMATION CONTACT: Frank Dunn, Manager, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–5170; Eleanor Farrar, Team Leader, Borrowings Accounting Team, Office of Public Debt Accounting, Bureau of the Public Debt, (304) 480–5166; Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–8692; or Geraldine J. Porco-Hubenko, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (202) 691–3708.

SUPPLEMENTARY INFORMATION: Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971 Sec. 2, Pub. L. 92–41, 85 Stat. 97. For example, the Contract Disputes Act of 1978 Sec. 12, Pub. L. 95–563, 92 Stat. 2389 and, indirectly, the Prompt Payment Act of 1982, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at a rate established by the Secretary of the Treasury for the Renegotiation Board under Pub. L. 92–41.

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable, for the period beginning July 1, 2003 and ending on December 31, 2003, is 3.125 per centum per annum. This rate is determined pursuant to the above-mentioned sections for the purpose of said sections.

Dated: June 26, 2003.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 03–16538 Filed 6–30–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

4810-35

DEPARTMENT OF THE TREASURY

FISCAL SERVICE
(Dept. Circular 570; 2003 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 2003

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the internet or from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER and on the internet as they occur.) Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F07, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

The most current list of Treasury authorized companies is always available through the Internet at http://www.fms.treas.gov/c570. In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Judith R. Tillman
Assistant Commissioner
Financial Operations
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company (NAIC #31325)
BUSINESS ADDRESS: P.O. BOX 9010, WESTBROOK, ME 04098-5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION b/: $3,102,000. SURETY LICENSES c,f/: AZ, CO, CT, DE, DC, KY, ME, MD, MA, MS, MO, NH, NY, OK, PA, RI, TX, UT, VT, VA. INCORPORATED IN: Maine.

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)
BUSINESS ADDRESS: 400 S. PARK AVENUE, SUITE 320, WINTER PARK, FL 32789. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: $1,092,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY (NAIC #22950)
BUSINESS ADDRESS: P.O. BOX 2350, NEW BRITAIN, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: $1,900,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)
BUSINESS ADDRESS: P.O. BOX 3153, HARRISBURG, PA 17105. PHONE: (717) 657-9671 x-3051. UNDERWRITING LIMITATION b/: $2,852,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Affiliated FM Insurance Company (NAIC #10014)
BUSINESS ADDRESS: P.O. BOX 7500, JOHNSTON, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $16,985,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)
BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2350. UNDERWRITING LIMITATION b/: $5,384,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Allegheny Casualty Company (NAIC #13285)
BUSINESS ADDRESS: P.O. BOX 1116, MEADVILLE, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: $1,230,000. SURETY LICENSES c,f/: AL, AR, CA, DC, FL, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NV, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMCO Insurance Company (NAIC #19100)
BUSINESS ADDRESS: 701 FIFTH AVENUE, DES MOINES, IA 50391-2007. PHONE: (800) 532-1436. UNDERWRITING LIMITATION b/: $37,956,000. SURETY LICENSES c,f/: AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OR, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION (NAIC #19720)
BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $10,968,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)
BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $8,185,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA (NAIC #10111)
BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157. PHONE: (305) 253-2244 x-37014. UNDERWRITING LIMITATION b/: $21,288,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $8,286,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) 1
BUSINESS ADDRESS: 9841 Airport Boulevard., 9th Floor, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION b/: $1,863,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IN, IA, KS, KY, LA, ME, MD, MN, MS, MO, MT, NE, NV, NJ, NM, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: California.

American Economy Insurance Company (NAIC #19690)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $37,404,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company (NAIC #24066)
BUSINESS ADDRESS: 9450 SEWARD ROAD, FAIRFIELD, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $11,244,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company (NAIC #26247)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196-1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $8,766,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Hardware Mutual Insurance Company (NAIC #13331)
BUSINESS ADDRESS: 471 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (800) 876-6642. UNDERWRITING LIMITATION b/: $8,207,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

American Home Assurance Company (NAIC #19380)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $288,331,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)
BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $29,641,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO (NAIC #31674)
BUSINESS ADDRESS: P O BOX 10181, SAN JUAN, PR 00908. PHONE: (787) 767-6400. UNDERWRITING LIMITATION b/: $9,177,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

American International Pacific Insurance Company (NAIC #23795)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $2,728,000. SURETY LICENSES c,f/: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Re-Insurance Company (NAIC #10227)
BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $223,003,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN RELIABLE INSURANCE COMPANY (NAIC #19615)
BUSINESS ADDRESS: 8655 EAST VIA DE VENTURA, SCOTTSDALE, AZ 85258. PHONE: (480) 483-8666. UNDERWRITING LIMITATION b/: $6,018,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

See Footnotes and Notes at the end of this Circular.

AMERICAN ROAD INSURANCE COMPANY (THE) (NAIC #19631)
BUSINESS ADDRESS: THE AMERICAN ROAD, DEARBORN, MI 48121-6027. PHONE: (313) 594-1914. UNDERWRITING LIMITATION b/: $29,396,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American Safety Casualty Insurance Company (NAIC #39969)
BUSINESS ADDRESS: 1845 THE EXCHANGE, SUITE 200, ATLANTA, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION b/: $2,953,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American States Insurance Company (NAIC #19704)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $46,962,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company (NAIC #31380)
BUSINESS ADDRESS: 3905 VINCENNES ROAD, SUITE 200, INDIANAPOLIS, IN 46268. PHONE: (317) 875-8700. UNDERWRITING LIMITATION b/: $654,000. SURETY LICENSES c,f/: AL, AK, CA, CT, DE, FL, HI, ID, IN, IA, KS, LA, ME, MD, MN, MS, MO, NE, NV, ND, OH, PA, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: California.

Amerisure Mutual Insurance Company (NAIC #23396)
BUSINESS ADDRESS: P. O. BOX 2060, FARMINGTON HILLS, MI 48333-2060. PHONE: (248) 615-9000 x-67968. UNDERWRITING LIMITATION b/: $30,185,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company (NAIC #10308)
BUSINESS ADDRESS: PO BOX 9023507, SAN JUAN, PR 00902-3507. PHONE: (787) 721-4900. UNDERWRITING LIMITATION b/: $3,912,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

See Footnotes and Notes at the end of this Circular.

Arch Reinsurance Company (NAIC #10348)
BUSINESS ADDRESS: 55 Madison Avenue, P.O. Box 1988, Morristown, NJ 07962-1988. PHONE: (973) 898-9575. UNDERWRITING LIMITATION b/: $35,922,000. SURETY LICENSES c,f/: GA, IL, IN, MD, MI, NE, NY, PA, UT. INCORPORATED IN: Nebraska.

Associated Indemnity Corporation (NAIC #21865)
BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $4,013,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Atlantic Bonding Company, Inc. (NAIC #41114)
BUSINESS ADDRESS: SUITE 212, HILTON PLAZA, PIKESVILLE, MD 21208. PHONE: (410) 484-3100. UNDERWRITING LIMITATION b/: $845,000. SURETY LICENSES c,f/: MD. INCORPORATED IN: Maryland.

Atlantic Mutual Insurance Company (NAIC #19895)
BUSINESS ADDRESS: 140 BROADWAY, NEW YORK, NY 10005-1101. PHONE: (800) 999-4762. UNDERWRITING LIMITATION b/: $45,564,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company (NAIC #18988)
BUSINESS ADDRESS: P.O. BOX 30660, LANSING, MI 48909-8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION b/: $285,250,000. SURETY LICENSES c,f/: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Michigan.

Berkley Insurance Company (NAIC #32603)
BUSINESS ADDRESS: 475 STEAMBOAT ROAD, GREENWICH, CT 06830. PHONE: (203) 542-3800. UNDERWRITING LIMITATION b/: $36,744,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

See Footnotes and Notes at the end of this Circular.

Berkley Regional Insurance Company (NAIC #29580)
BUSINESS ADDRESS: P. O. Box 1594, Des Moines, IA 50306. PHONE: (203) 629-3000. UNDERWRITING LIMITATION b/: $32,390,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION (NAIC #20095)
BUSINESS ADDRESS: 320 - 18TH STREET, ROCK ISLAND, IL 61201-8744. PHONE: (309) 732-0300. UNDERWRITING LIMITATION b/: $19,056,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY (NAIC #27081)
BUSINESS ADDRESS: 1919 S. Highland Ave, Bldg. A, Suite 300, LOMBARD, IL 60148. PHONE: (630) 495-9380. UNDERWRITING LIMITATION b/: $502,000. SURETY LICENSES c,f/: CO, IL, IN, KS, KY, MO, MT, NC, OK, TN, TX, UT, WV. INCORPORATED IN: Illinois.

BRITISH AMERICAN INSURANCE COMPANY (NAIC #32875)
BUSINESS ADDRESS: P.O. BOX 1590, DALLAS, TX 75221-1590. PHONE: (214) 443-5500. UNDERWRITING LIMITATION b/: $2,801,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Buckeye Union Insurance Company (The) (NAIC #20788)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $15,410,000. SURETY LICENSES c,f/: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

Capitol Indemnity Corporation (NAIC #10472)
BUSINESS ADDRESS: P.O. BOX 5900, MADISON, WI 53705-0900. PHONE: (608) 231-4450 x-443. UNDERWRITING LIMITATION b/: $12,662,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes and Notes at the end of this Circular.

Carolina Casualty Insurance Company (NAIC #10510)
BUSINESS ADDRESS: P.O. BOX 2575, JACKSONVILLE, FL 32203. PHONE: (904) 363-0900. UNDERWRITING LIMITATION b/: $13,663,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Insurance Company (NAIC #19909)
BUSINESS ADDRESS: 140 BROADWAY, NEW YORK, NY 10005-1101. PHONE: (800) 999-4762. UNDERWRITING LIMITATION b/: $17,287,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

CENTRAL MUTUAL INSURANCE COMPANY (NAIC #20230)
BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2350. UNDERWRITING LIMITATION b/: $20,240,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA, WV. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY (NAIC #36951)
BUSINESS ADDRESS: P.O. BOX 163340, COLUMBUS, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $4,349,000. SURETY LICENSES c,f/: AZ, IN, ME, OH, WV, WI. INCORPORATED IN: Ohio.

Cherokee Insurance Company (NAIC #10642)
BUSINESS ADDRESS: 34200 MOUND ROAD, STERLING HEIGHTS, MI 48310. PHONE: (800) 201-0450. UNDERWRITING LIMITATION b/: $2,357,000. SURETY LICENSES c,f/: AK, AR, CA, GA, ID, IN, IA, LA, MI, MN, MO, ND, OH, OR, TN, WV. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY (NAIC #12777)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $2,894,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

Cincinnati Casualty Company (The) (NAIC #28665)
BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION b/: $23,415,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The) (NAIC #10677)
BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION b/: $210,296,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CITIZENS INSURANCE COMPANY OF AMERICA (NAIC #31534)
BUSINESS ADDRESS: 645 West Grand River Avenue, Howell, MI 48843. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $48,485,000. SURETY LICENSES c,f/: AL, IL, IN, KS, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA. INCORPORATED IN: Michigan.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY (NAIC #34347)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196-1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $1,884,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY (NAIC #10758)
BUSINESS ADDRESS: 50 CHESTNUT RIDGE ROAD, MONTVALE, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION b/: $415,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, ID, IN, KS, KY, MD, MA, MN, MS, MT, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, SD, TN, TX, UT, WV, WY. INCORPORATED IN: Pennsylvania.

Consolidated Insurance Company (NAIC #22640)
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $4,956,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, OH, TN, WA, WI. INCORPORATED IN: Indiana.

See Footnotes and Notes at the end of this Circular.

Continental Casualty Company (NAIC #20443)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $473,109,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The) (NAIC #35289)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $73,887,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206)
BUSINESS ADDRESS: P.O. BOX 9271, SEATTLE, WA 98109-0271. PHONE: (206) 628-7209. UNDERWRITING LIMITATION b/: $2,671,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)
BUSINESS ADDRESS: P.O. BOX 363846, SAN JUAN, PR 00936-3846. PHONE: (787) 758-8585 x-2422. UNDERWRITING LIMITATION b/: $18,632,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

CUMBERLAND CASUALTY & SURETY COMPANY (NAIC #24660)
BUSINESS ADDRESS: 4311 WEST WATERS AVENUE SUITE 401, TAMPA, FL 33614. PHONE: (813) 885-2112. UNDERWRITING LIMITATION b/: $473,000. SURETY LICENSES c,f/: AL, AR, DE, DC, FL, GA, GU, ID, IN, KS, KY, LA, MD, MA, MO, MT, NE, NV, NM, ND, OK, OR, PA, SC, SD, TN, TX, WA, WV, WY. INCORPORATED IN: Florida.

CUMIS INSURANCE SOCIETY, INC. (NAIC #10847)
BUSINESS ADDRESS: P. O. Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION b/: $26,682,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes and Notes at the end of this Circular.

DaimlerChrysler Insurance Company (NAIC #10499)
BUSINESS ADDRESS: CIMS:405-26-10, P.O. Box 9217, Farmington Hills, MI 48333-9217. PHONE: (800) 782-9164. UNDERWRITING LIMITATION b/: $14,764,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Developers Surety and Indemnity Company (NAIC #12718)
BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623. PHONE: (949) 263-3344. UNDERWRITING LIMITATION b/: $1,492,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Insurance Company of Wausau (NAIC #21458)
BUSINESS ADDRESS: P.O. Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211 x-6570. UNDERWRITING LIMITATION b/: $70,069,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)
BUSINESS ADDRESS: P. O. BOX 712, DES MOINES, IA 50303-0712. PHONE: (515) 362-7589. UNDERWRITING LIMITATION b/: $43,353,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation (NAIC #39845)
BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66201-1391. PHONE: (913) 676-5147. UNDERWRITING LIMITATION b/: $402,128,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Erie Insurance Company (NAIC #26263)
BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION b/: $7,488,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

Everest Reinsurance Company (NAIC #26921)
BUSINESS ADDRESS: P.O. BOX 830, LIBERTY CORNER, NJ 07938-0830. PHONE: (800) 438-4375. UNDERWRITING LIMITATION b/: $149,401,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company (NAIC #12750)
BUSINESS ADDRESS: P.O. BOX 163340, COLUMBUS, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $2,231,000. SURETY LICENSES c,f/: AL, AK, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company (NAIC #11045)
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $5,567,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, IN, KY, MD, MA, NH, NJ, NY, NC, PA, VA. INCORPORATED IN: New Hampshire.

Executive Risk Indemnity Inc. (NAIC #35181)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $40,480,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

EXPLORER INSURANCE COMPANY (THE) (NAIC #40029)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186-5563. PHONE: (661) 294-8980 x-6057. UNDERWRITING LIMITATION b/: $1,735,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: Arizona.

Factory Mutual Insurance Company (NAIC #21482)
BUSINESS ADDRESS: P.O. BOX 7500, JOHNSTON, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $176,318,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

See Footnotes and Notes at the end of this Circular.

Farmers Alliance Mutual Insurance Company (NAIC #19194)
BUSINESS ADDRESS: 1122 NORTH MAIN STREET, MCPHERSON, KS 67460. PHONE: (620) 241-2200. UNDERWRITING LIMITATION b/: $6,033,000. SURETY LICENSES c,f/: AZ, CO, ID, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $17,349,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company (NAIC #13838)
BUSINESS ADDRESS: 1963 BELL AVENUE, DES MOINES, IA 50315-1030. PHONE: (515) 245-8800. UNDERWRITING LIMITATION b/: $8,698,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company (NAIC #20281)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $401,727,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY (NAIC #13935)
BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (888) 333-4949. UNDERWRITING LIMITATION b/: $103,942,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The) (NAIC #35270)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $10,742,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

See Footnotes and Notes at the end of this Circular.

Fidelity and Deposit Company of Maryland (NAIC #39306)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196-1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $13,931,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY (NAIC #35386)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $1,475,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $4,670,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Pacific Insurance Company (NAIC #31453)
BUSINESS ADDRESS: P.O. BOX 292220, SACRAMENTO, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION b/: $2,795,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)
BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $223,949,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey (NAIC #20850)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $37,555,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

See Footnotes and Notes at the end of this Circular.

First Community Insurance Company (NAIC #16578)
BUSINESS ADDRESS: 4050 Calle Real, Suite 290, Santa Barbara, CA 93110. PHONE: (805) 696-7000. UNDERWRITING LIMITATION b/: $845,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)
BUSINESS ADDRESS: P.O. BOX 2866, HONOLULU, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION b/: $11,716,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The) (NAIC #33588)
BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500 x-42067. UNDERWRITING LIMITATION b/: $1,866,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America (NAIC #24724)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $5,744,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

First Sealord Surety, Inc. (NAIC #28519)
BUSINESS ADDRESS: 33 ROCK HILL ROAD, BALA CYNWYD, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION b/: $1,000,000. SURETY LICENSES c,f/: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, WI. INCORPORATED IN: Pennsylvania.

FOLKSAMERICA REINSURANCE COMPANY (NAIC #38776)
BUSINESS ADDRESS: ONE LIBERTY PLAZA, NEW YORK, NY 10006-1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: $85,705,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

General Insurance Company of America (NAIC #24732)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $55,320,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation (NAIC #22039)
BUSINESS ADDRESS: Financial Centre, P.O.Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5604. UNDERWRITING LIMITATION b/: $356,525,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co. (NAIC #11304)
BUSINESS ADDRESS: 3555 FARNAM STREET, OMAHA, NE 68131. PHONE: (402) 271-2840. UNDERWRITING LIMITATION b/: $3,440,000. SURETY LICENSES c,f/: AZ, CA, CO, NE. INCORPORATED IN: Nebraska.

GRANITE RE, INC. (NAIC #26310)
BUSINESS ADDRESS: 14001 QUAILBROOK DRIVE, OKLAHOMA CITY, OK 73134. PHONE: (800) 440-5953. UNDERWRITING LIMITATION b/: $405,000. SURETY LICENSES c,f/: AZ, AR, CO, KS, MN, MT, ND, OK, SD, WI. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $2,734,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Great American Alliance Insurance Company (NAIC #26832)
BUSINESS ADDRESS: 580 WALNUT STREET, CINCINNATI, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $1,997,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Great American Insurance Company (NAIC #16691)
BUSINESS ADDRESS: 580 WALNUT STREET, CINCINNATI, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $120,125,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)
BUSINESS ADDRESS: 580 WALNUT STREET, CINCINNATI, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $4,544,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $19,500,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

GREAT RIVER INSURANCE COMPANY (NAIC #18468)
BUSINESS ADDRESS: P.O. Box 152180, Irving, TX 75015-2180. PHONE: (972) 719-2400 x-2416. UNDERWRITING LIMITATION b/: $1,120,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Greenwich Insurance Company (NAIC #22322)
BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902-6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $5,814,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Guarantee Company of North America USA (The) (NAIC #37443)
BUSINESS ADDRESS: 8000 Midlantic Drive, Suite 410N, Mt. Laurel, NJ 08054. PHONE: (856) 439-0066. UNDERWRITING LIMITATION b/: $621,000. SURETY LICENSES c,f/: AL, CT, DE, DC, FL, GA, IL, IN, KS, KY, MD, MA, MN, MO, NJ, NY, NC, OK, PA, TN, TX. INCORPORATED IN: New Jersey.

See Footnotes and Notes at the end of this Circular.

Gulf Insurance Company (NAIC #22217)
BUSINESS ADDRESS: P.O. BOX 131771, DALLAS, TX 75313-1771. PHONE: (212) 291-3004. UNDERWRITING LIMITATION b/: $49,098,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hanover Insurance Company (The) (NAIC #22292)
BUSINESS ADDRESS: 440 Lincoln Street, WORCESTER, MA 01653. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $34,546,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)
BUSINESS ADDRESS: P.O. BOX 68309, SCHAUMBURG, IL 60168-0309. PHONE: (847) 321-4800. UNDERWRITING LIMITATION b/: $10,604,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company (NAIC #14168)
BUSINESS ADDRESS: 355 MAPLE AVENUE, HARLEYSVILLE, PA 19438-2297. PHONE: (215) 256-5470. UNDERWRITING LIMITATION b/: $47,990,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company (NAIC #26182)
BUSINESS ADDRESS: 120 Front Street, Suite 400, Worcester, MA 01608-1408. PHONE: (215) 256-5470. UNDERWRITING LIMITATION b/: $9,721,000. SURETY LICENSES c,f/: CT, ME, MA, MI, NH, NY, RI, VT. INCORPORATED IN: Massachusetts.

Hartford Accident and Indemnity Company (NAIC #22357)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4707. UNDERWRITING LIMITATION b/: $151,526,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes and Notes at the end of this Circular.

Hartford Casualty Insurance Company (NAIC #29424)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4707. UNDERWRITING LIMITATION b/: $66,647,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company (NAIC #19682)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4707. UNDERWRITING LIMITATION b/: $632,479,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4707. UNDERWRITING LIMITATION b/: $65,632,000. SURETY LICENSES c,f/: IL, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4707. UNDERWRITING LIMITATION b/: $11,122,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4707. UNDERWRITING LIMITATION b/: $4,475,000. SURETY LICENSES c,f/: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

ICI MUTUAL INSURANCE COMPANY (NAIC #00001)
BUSINESS ADDRESS: 40 MAIN STREET, SUITE 500, P.O. BOX 730, BURLINGTON, VT 05402-0730. PHONE: (802) 863-0096. UNDERWRITING LIMITATION b/: $14,602,000. SURETY LICENSES c,f/: VT. INCORPORATED IN: Vermont.

Indemnity Company of California (NAIC #25550)
BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623. PHONE: (949) 263-3344. UNDERWRITING LIMITATION b/: $630,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

See Footnotes and Notes at the end of this Circular.

Independence Casualty and Surety Company (NAIC #10024)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186-5563. PHONE: (858) 350-2400 x-2411. UNDERWRITING LIMITATION b/: $1,740,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company (NAIC #22659)
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $16,942,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KS, KY, MI, MN, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)
BUSINESS ADDRESS: 3600 WOODVIEW TRACE, INDIANAPOLIS, IN 46268-0600. PHONE: (317) 875-3710. UNDERWRITING LIMITATION b/: $3,551,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company (NAIC #23264)
BUSINESS ADDRESS: P.O. BOX 80468, LINCOLN, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $6,989,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $33,757,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186-5563. PHONE: (858) 350-2400 x-2634. UNDERWRITING LIMITATION b/: $17,123,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)
BUSINESS ADDRESS: P.O. BOX 2683, WACO, TX 76702-2683. PHONE: (254) 759-3703 x-3727. UNDERWRITING LIMITATION b/: $282,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)
BUSINESS ADDRESS: P. O. BOX 70128, SAN JUAN, PR 00936-8128. PHONE: (787) 781-0707 x-200. UNDERWRITING LIMITATION b/: $4,934,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Business & Mercantile REassurance Company (NAIC #24139)
BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION b/: $10,424,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Fidelity Insurance Company (NAIC #11592) 2
BUSINESS ADDRESS: ONE NEWARK CENTER, 20TH FLOOR, NEWARK, NJ 07102-5207. PHONE: (973) 624-7200 x-205. UNDERWRITING LIMITATION b/: $3,121,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)
BUSINESS ADDRESS: P.O. BOX 1520, HONOLULU, HI 96806-1520. PHONE: (808) 564-8200. UNDERWRITING LIMITATION b/: $8,316,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The) (NAIC #15962)
BUSINESS ADDRESS: P. O. BOX 1654, TOPEKA, KS 66601-1654. PHONE: (785) 228-0000. UNDERWRITING LIMITATION b/: $9,483,000. SURETY LICENSES c,f/: AZ, AR, CO, DE, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, VA, WI, WY. INCORPORATED IN: Kansas.

Lexington Insurance Company (NAIC #19437)
BUSINESS ADDRESS: 200 STATE STREET, BOSTON,, MA 02109. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $176,365,000. SURETY LICENSES c,f/: DE. INCORPORATED IN: Delaware.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)
BUSINESS ADDRESS: 214 EAST LEXINGTON STREET, BALTIMORE, MD 21202. PHONE: (410) 625-0800. UNDERWRITING LIMITATION b/: $612,000. SURETY LICENSES c,f/: CA, CO, DE, FL, IN, MD, MS, NJ, PA. INCORPORATED IN: Maryland.

See Footnotes and Notes at the end of this Circular.

Lexon Insurance Company (NAIC #13307)
BUSINESS ADDRESS: 9025 N. LINDBERGH DR., PEORIA, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $2,539,000. SURETY LICENSES c,f/: AL, AR, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Liberty Insurance Corporation (NAIC #42404)
BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500 x-42067. UNDERWRITING LIMITATION b/: $25,584,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

LIBERTY MUTUAL FIRE INSURANCE COMPANY (NAIC #23035)
BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500 x-42067. UNDERWRITING LIMITATION b/: $70,178,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Liberty Mutual Insurance Company (NAIC #23043)
BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500 x-42067. UNDERWRITING LIMITATION b/: $283,337,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company (NAIC #33855)
BUSINESS ADDRESS: 3350 WHITEFORD RD., P.O. BOX 3709, YORK, PA 17402-0136. PHONE: (717) 840-2408. UNDERWRITING LIMITATION b/: $8,851,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

LM Insurance Corporation (NAIC #33600)
BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500 x-42067. UNDERWRITING LIMITATION b/: $1,638,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Lyndon Property Insurance Company (NAIC #35769)
BUSINESS ADDRESS: 520 Maryville Centre Drive, Ste 500, St. Louis, MO 63141. PHONE: (800) 950-6060. UNDERWRITING LIMITATION b/: $14,376,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Massachusetts Bay Insurance Company (NAIC #22306)
BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $2,111,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)
BUSINESS ADDRESS: 2100 FLEUR DRIVE, DES MOINES, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $3,147,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)
BUSINESS ADDRESS: P. O. BOX 30060, LANSING, MI 48909-7560. PHONE: (517) 482-6211 x-760. UNDERWRITING LIMITATION b/: $7,791,000. SURETY LICENSES c,f/: AZ, AR, CA, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, NC, ND, OH, OK, PA, SD, VA, WI. INCORPORATED IN: Michigan.

Mid-Century Insurance Company (NAIC #21687)
BUSINESS ADDRESS: P.O. BOX 2478 TERMINAL ANNEX, LOS ANGELES, CA 90051. PHONE: (805) 583-7000. UNDERWRITING LIMITATION b/: $51,359,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

See Footnotes and Notes at the end of this Circular.

MID-CONTINENT CASUALTY COMPANY (NAIC #23418)
BUSINESS ADDRESS: P.O. BOX 1409, TULSA, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $11,142,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Oklahoma.

Mid-State Surety Corporation (NAIC #36650)
BUSINESS ADDRESS: 102 KERCHEVAL AVENUE, GROSSE POINTE FARMS, MI 48236. PHONE: (313) 886-2200. UNDERWRITING LIMITATION b/: $1,380,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NV, NH, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Michigan.

MIDWESTERN INDEMNITY COMPANY (THE) (NAIC #23515) 3
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $2,541,000. SURETY LICENSES c,f/: AL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company (NAIC #30996)
BUSINESS ADDRESS: PO BOX 463, AUSTIN, MN 55912-0463. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: $131,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motorists Mutual Insurance Company (NAIC #14621)
BUSINESS ADDRESS: 471 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (800) 876-6642. UNDERWRITING LIMITATION b/: $33,496,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)
BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263-6900. UNDERWRITING LIMITATION b/: $113,235,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

National American Insurance Company (NAIC #23663)
BUSINESS ADDRESS: 1010 MANVEL AVENUE, CHANDLER, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION b/: $4,407,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

National Fire Insurance Company of Hartford (NAIC #20478)
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (800) 262-2255. UNDERWRITING LIMITATION b/: $14,300,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

National Grange Mutual Insurance Company (NAIC #14788)
BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (603) 358-1785. UNDERWRITING LIMITATION b/: $24,365,000. SURETY LICENSES c,f/: CT, DE, DC, GA, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company (NAIC #20087)
BUSINESS ADDRESS: 3024 HARNEY STREET, OMAHA, NE 68131-3580. PHONE: (402) 536-3000. UNDERWRITING LIMITATION b/: $1,573,207,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation (NAIC #21881)
BUSINESS ADDRESS: 233 SOUTH WACKER DRIVE, SUITE 2000, CHICAGO, IL 60606-6308. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $9,930,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $465,050,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

Nationwide Mutual Insurance Company (NAIC #23787)
BUSINESS ADDRESS: ONE NATIONWIDE PLAZA, COLUMBUS, OH 43215-2220. PHONE: (614) 249-6408. UNDERWRITING LIMITATION b/: $522,618,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY (NAIC #42307)
BUSINESS ADDRESS: Reckson Exec Pk., 6 International Dr., Suite 100, Rye Brook, NY 10573-1070. PHONE: (914) 934-8999. UNDERWRITING LIMITATION b/: $12,854,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Netherlands Insurance Company (The) (NAIC #24171)
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $3,509,000. SURETY LICENSES c,f/: AZ, AR, CA, CT, DC, GA, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, NV, NH, NJ, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company (NAIC #23841)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK,, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $59,694,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY (NAIC #29874)
BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: $12,053,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NORTHWESTERN PACIFIC INDEMNITY COMPANY (NAIC #20338)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $3,530,000. SURETY LICENSES c,f/: CA, OK, OR, TX, WA. INCORPORATED IN: Oregon.

See Footnotes and Notes at the end of this Circular.

NOVA Casualty Company (NAIC #42552)
BUSINESS ADDRESS: 180 OAK STREET, BUFFALO, NY 14203. PHONE: (716) 856-3722 x-315. UNDERWRITING LIMITATION b/: $1,454,000. SURETY LICENSES c,f/: AZ, FL, GA, IN, IA, MS, NV, NY, ND, OH, PA, SC, TN, VA. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The) (NAIC #24074)
BUSINESS ADDRESS: 9450 SEWARD ROAD, FAIRFIELD, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $24,224,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company (NAIC #24104)
BUSINESS ADDRESS: P. O. BOX 5001, WESTFIELD CENTER, OH 44251-5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $58,400,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)
BUSINESS ADDRESS: 250 EAST BROAD STREET, 10TH FLOOR, COLUMBUS, OH 43215. PHONE: (614) 228-2800 x-105. UNDERWRITING LIMITATION b/: $3,235,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company (NAIC #23426)
BUSINESS ADDRESS: P.O. BOX 1409, TULSA, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $616,000. SURETY LICENSES c,f/: AR, KS, LA, OK, TX, VA. INCORPORATED IN: Oklahoma.

OLD DOMINION INSURANCE COMPANY (NAIC #40231)
BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (603) 358-1785. UNDERWRITING LIMITATION b/: $1,431,000. SURETY LICENSES c,f/: DE, FL, GA, MD, SC, VA. INCORPORATED IN: Florida.

See Footnotes and Notes at the end of this Circular.

Old Republic Insurance Company (NAIC #24147)
BUSINESS ADDRESS: PO BOX 789, GREENSBURG, PA 15601-0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: $53,644,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)
BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201. PHONE: (262) 797-2640 x-654. UNDERWRITING LIMITATION b/: $3,358,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621)
BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108-3100. PHONE: (508) 549-9797. UNDERWRITING LIMITATION b/: $44,509,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

OneBeacon Insurance Company (NAIC #21970)
BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108-3100. PHONE: (508) 549-9797. UNDERWRITING LIMITATION b/: $74,956,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company (NAIC #20346)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $67,729,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PACIFIC INDEMNITY INSURANCE COMPANY (NAIC #18380)
BUSINESS ADDRESS: 348 W. O'BRIEN DRIVE, AGANA, GU 96932. PHONE: (671) 472-8834. UNDERWRITING LIMITATION b/: $313,000. SURETY LICENSES c,f/: GU. INCORPORATED IN: Guam.

See Footnotes and Notes at the end of this Circular.

PARTNER REINSURANCE COMPANY OF THE U.S. (NAIC #38636)
BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: $41,313,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, TX, UT, WA. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK (NAIC #10006)
BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: $9,929,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

Peerless Indemnity Insurance Company (NAIC #18333)
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (630) 505-1442. UNDERWRITING LIMITATION b/: $38,414,000. SURETY LICENSES c,f/: AK, AZ, AR, CO, IL, KS, MD, MT, NJ, NY, PA, UT, VT, WA, WI. INCORPORATED IN: Illinois.

Peerless Insurance Company (NAIC #24198)
BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $16,421,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company (NAIC #24228)
BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558. PHONE: (309) 346-1161 x-2722. UNDERWRITING LIMITATION b/: $4,315,000. SURETY LICENSES c,f/: IL, IN, IA, WI. INCORPORATED IN: Illinois.

Penn Millers Insurance Company (NAIC #14982)
BUSINESS ADDRESS: P. O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION b/: $4,120,000. SURETY LICENSES c,f/: AL, AR, CT, DC, FL, GA, IL, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Pennsylvania.

Pennsylvania General Insurance Company (NAIC #21962)
BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108-3100. PHONE: (508) 549-9797. UNDERWRITING LIMITATION b/: $19,199,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)
BUSINESS ADDRESS: P. O. BOX 2361, HARRISBURG, PA 17105-2361. PHONE: (717) 234-4941 x-6867. UNDERWRITING LIMITATION b/: $22,639,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company (NAIC #12670)
BUSINESS ADDRESS: 6780 EAST HAMPDEN AVENUE, DENVER, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION b/: $384,000. SURETY LICENSES c,f/: CO, KS, MT, NM, UT. INCORPORATED IN: Colorado.

PLANET INDEMNITY COMPANY (NAIC #28860)
BUSINESS ADDRESS: 9025 N. LINDBERGH DR., PEORIA, IL 61615. PHONE: (309) 692-1000 x-5466. UNDERWRITING LIMITATION b/: $3,054,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Progressive Casualty Insurance Company (NAIC #24260)
BUSINESS ADDRESS: 6300 WILSON MILLS ROAD, W33, MAYFIELD VILLAGE, OH 44143-2182. PHONE: (800) 776-4737. UNDERWRITING LIMITATION b/: $161,944,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company (NAIC #12416)
BUSINESS ADDRESS: 1099 NORTH MERIDIAN STREET, INDIANAPOLIS, IN 46204. PHONE: (317) 636-9800 x-288. UNDERWRITING LIMITATION b/: $26,773,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Providence Washington Insurance Company (NAIC #24295)
BUSINESS ADDRESS: P.O. BOX 518, PROVIDENCE, RI 02901-0518. PHONE: (401) 453-7237. UNDERWRITING LIMITATION b/: $8,274,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

See Footnotes and Notes at the end of this Circular.

Ranger Insurance Company (NAIC #24384)

BUSINESS ADDRESS: P.O. BOX 2807, HOUSTON, TX 77042. PHONE: (713) 954-8100. UNDERWRITING LIMITATION b/: $4,494,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Republic - Franklin Insurance Company (NAIC #12475)

BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2413. UNDERWRITING LIMITATION b/: $2,180,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Insurance Company (NAIC #13056)

BUSINESS ADDRESS: 9025 N. LINDBERGH DRIVE, PEORIA, IL 61615. PHONE: (309) 692-1000 x-5466. UNDERWRITING LIMITATION b/: $34,572,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

SAFECO Insurance Company of America (NAIC #24740)

BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $82,607,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Safety National Casualty Corporation (NAIC #15105)

BUSINESS ADDRESS: 2043 WOODLAND PARKWAY, SUITE 200, ST. LOUIS, MO 63146. PHONE: (314) 995-5300 x-200. UNDERWRITING LIMITATION b/: $21,271,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes and Notes at the end of this Circular.

Seaboard Surety Company (NAIC #22535)
BUSINESS ADDRESS: 5801 SMITH AVENUE, BALTIMORE, MD 21209-3653. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $12,677,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURA INSURANCE, A Mutual Company (NAIC #22543)
BUSINESS ADDRESS: P.O. BOX 819, APPLETON, WI 54912-0819. PHONE: (920) 739-3161. UNDERWRITING LIMITATION b/: $10,509,000. SURETY LICENSES c,f/: IL, IN, IA, KS, MI, MN, MO, ND, WI. INCORPORATED IN: Wisconsin.

Select Insurance Company (NAIC #22233)
BUSINESS ADDRESS: P.O. BOX 131771, DALLAS, TX 75313-1771. PHONE: (212) 291-3004. UNDERWRITING LIMITATION b/: $5,493,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Selective Insurance Company of America (NAIC #12572)
BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: $30,405,000. SURETY LICENSES c,f/: AL, CT, DE, DC, GA, IL, IN, IA, KY, MD, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, SD, TN, VA, WV, WI. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc. (NAIC #10936)
BUSINESS ADDRESS: 160 WATER STREET, NEW YORK, NY 10038-4922. PHONE: (212) 344-3000. UNDERWRITING LIMITATION b/: $7,193,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company (NAIC #24988)
BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481-8020. PHONE: (715) 346-7527. UNDERWRITING LIMITATION b/: $183,439,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes and Notes at the end of this Circular.

Sentry Select Insurance Company (NAIC #21180)
BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481-8020. PHONE: (715) 346-7527. UNDERWRITING LIMITATION b/: $13,157,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY (NAIC #36560)
BUSINESS ADDRESS: P.O. BOX 9729, BRADENTON, FL 34206-9729. PHONE: (800) 780-8423 x-1021. UNDERWRITING LIMITATION b/: $859,000. SURETY LICENSES c,f/: AL, CO, DE, DC, FL, GA, IN, IA, KS, MI, MS, MO, NE, NC, ND, OK, OR, PA, SC, TN, TX, UT, VA. INCORPORATED IN: Florida.

SERVICE INSURANCE COMPANY INC. (THE) (NAIC #28240)
BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731-7650. UNDERWRITING LIMITATION b/: $212,000. SURETY LICENSES c,f/: CT, DE, NJ, NY, PA. INCORPORATED IN: New Jersey.

St. Paul Fire and Marine Insurance Company (NAIC #24767)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $284,616,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY (NAIC #24775)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $3,420,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company (NAIC #24791)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $6,780,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See Footnotes and Notes at the end of this Circular.

Standard Fire Insurance Company (The) (NAIC #19070)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $74,165,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)
BUSINESS ADDRESS: 26600 TELEGRAPH ROAD, SOUTHFIELD, MI 48034. PHONE: (800) 482-2726. UNDERWRITING LIMITATION b/: $9,383,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Auto Property and Casualty Insurance Company (NAIC #25127)
BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464-5000 x-5017. UNDERWRITING LIMITATION b/: $24,561,000. SURETY LICENSES c,f/: AL, AZ, AR, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, UT, VA, WV, WI, WY. INCORPORATED IN: S. Carolina.

State Automobile Mutual Insurance Company (NAIC #25135)
BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215-3976. PHONE: (614) 464-5000 x-5017. UNDERWRITING LIMITATION b/: $62,994,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, VT, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company (NAIC #25143)
BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766-6393. UNDERWRITING LIMITATION b/: $311,106,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Suretec Insurance Company (NAIC #10916)
BUSINESS ADDRESS: 10000 MEMORIAL DR. SUITE 330, HOUSTON, TX 77024. PHONE: (713) 812-0800. UNDERWRITING LIMITATION b/: $856,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

SURETY BONDING COMPANY OF AMERICA (NAIC #24047)
BUSINESS ADDRESS: P.O. BOX 5111, SIOUX FALLS, SD 57117-5111. PHONE: (800) 331-6053. UNDERWRITING LIMITATION b/: $515,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Surety Company of the Pacific (NAIC #12793)
BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410. PHONE: (818) 609-9232. UNDERWRITING LIMITATION b/: $531,000. SURETY LICENSES c,f/: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation (NAIC #25364)
BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504. PHONE: (914) 828-8000. UNDERWRITING LIMITATION b/: $222,349,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY (NAIC #20389)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $1,053,000. SURETY LICENSES c,f/: AR, TX. INCORPORATED IN: Texas.

TRANSATLANTIC REINSURANCE COMPANY (NAIC #19453)
BUSINESS ADDRESS: 80 PINE STREET, NEW YORK, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION b/: $154,594,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $169,152,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes and Notes at the end of this Circular.

Travelers Casualty and Surety Company of America (NAIC #31194)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $70,774,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of Illinois (NAIC #19046)
BUSINESS ADDRESS: 215 SHUMAN BOULEVARD, NAPERVILLE, IL 60563. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $35,233,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The) (NAIC #25658)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $357,861,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Trinity Universal Insurance Company (NAIC #19887)
BUSINESS ADDRESS: P.O. BOX 655028, DALLAS, TX 75265-5028. PHONE: (800) 926-1887. UNDERWRITING LIMITATION b/: $51,726,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

U.S. Specialty Insurance Company (NAIC #29599)
BUSINESS ADDRESS: 13403 NORTHWEST FREEWAY, HOUSTON, TX 77040-6094. PHONE: (713) 744-3700. UNDERWRITING LIMITATION b/: $10,883,000. SURETY LICENSES c,f/: AL, AK, AR, CO, DC, HI, ID, IL, KS, KY, LA, MS, MO, MT, NV, NM, NY, ND, OK, SD, TN, TX, VT, WA, WV, WY. INCORPORATED IN: Texas.

Union Insurance Company (NAIC #25844)
BUSINESS ADDRESS: PO BOX 1594, DES MOINES, IA 50306. PHONE: (515) 278-3000. UNDERWRITING LIMITATION b/: $2,010,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, DE, DC, GA, ID, IA, KS, KY, MD, MN, MS, MO, MT, NE, NH, NM, NC, ND, OK, PA, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

See Footnotes and Notes at the end of this Circular.

UNITED CASUALTY AND SURETY INSURANCE COMPANY (NAIC #36226)
BUSINESS ADDRESS: 170 MILK STREET, BOSTON, MA 02109. PHONE: (617) 542-3232 x-109. UNDERWRITING LIMITATION b/: $286,000. SURETY LICENSES c,f/: DC, MA, NY, ND, PA. INCORPORATED IN: Massachusetts.

United Coastal Insurance Company (NAIC #28053) 4
BUSINESS ADDRESS: 233 MAIN STREET P.O. BOX 2350, NEW BRITAIN, CT 06050-2350. PHONE: (860) 223-5000. UNDERWRITING LIMITATION b/: $2,196,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

United Fire & Casualty Company (NAIC #13021)
BUSINESS ADDRESS: P. O. BOX 73909, CEDAR RAPIDS, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $24,937,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

United States Fidelity and Guaranty Company (NAIC #25887)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $179,845,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNITED STATES FIRE INSURANCE COMPANY (NAIC #21113)
BUSINESS ADDRESS: 305 MADISON AVENUE, MORRISTOWN, NJ 07962. PHONE: (973) 490-6473. UNDERWRITING LIMITATION b/: $54,859,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

United States Surety Company (NAIC #10656)
BUSINESS ADDRESS: P. O. BOX 5605, TIMONIUM, MD 21094-5605. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: $351,000. SURETY LICENSES c,f/: DE, DC, MD, PA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY (NAIC #44423)
BUSINESS ADDRESS: P.O. BOX 2111, SAN JUAN, PR 00922-2111. PHONE: (787) 273-1818. UNDERWRITING LIMITATION b/: $3,713,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

See Footnotes and Notes at the end of this Circular.

UNIVERSAL INSURANCE COMPANY (NAIC #31704)
BUSINESS ADDRESS: GPO BOX 71338, SAN JUAN, PR 00936. PHONE: (787) 706-7150. UNDERWRITING LIMITATION b/: $10,806,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)
BUSINESS ADDRESS: P.O.BOX 80468, LINCOLN, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $5,426,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY (NAIC #41181)
BUSINESS ADDRESS: 7045 COLLEGE BOULEVARD, OVERLAND PARK, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION b/: $29,109,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

Utica Mutual Insurance Company (NAIC #25976)
BUSINESS ADDRESS: POST OFFICE BOX 530, UTICA, NY 13503-0530. PHONE: (315) 734-2413. UNDERWRITING LIMITATION b/: $36,699,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VAN TOL SURETY COMPANY, INCORPORATED (NAIC #30279)
BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION b/: $298,000. SURETY LICENSES c,f/: SD. INCORPORATED IN: South Dakota.

Vigilant Insurance Company (NAIC #20397)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061-1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $8,363,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

Washington International Insurance Company (NAIC #32778)
BUSINESS ADDRESS: 1200 ARLINGTON HEIGHTS ROAD, SUITE 400, ITASCA, IL 60143-2625. PHONE: (630) 227-4700. UNDERWRITING LIMITATION b/: $3,308,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company (NAIC #44393)
BUSINESS ADDRESS: 9450 SEWARD ROAD, FAIRFIELD, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $37,108,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)
BUSINESS ADDRESS: 1900 SOUTH 18TH AVENUE, WEST BEND, WI 53095. PHONE: (262) 334-5571. UNDERWRITING LIMITATION b/: $23,101,000. SURETY LICENSES c,f/: IL, IN, IA, MI, MN, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #21121)
BUSINESS ADDRESS: 1601 CHESTNUT STREET, P.O. BOX 41484, PHILADELPHIA, PA 19101-1484. PHONE: (215) 640-4551. UNDERWRITING LIMITATION b/: $40,468,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company (NAIC #10008)
BUSINESS ADDRESS: P.O. BOX 21030, RENO, NV 89515. PHONE: (775) 829-6650. UNDERWRITING LIMITATION b/: $556,000. SURETY LICENSES c,f/: CA, NV, NM, UT. INCORPORATED IN: Nevada.

Western Surety Company (NAIC #13188)
BUSINESS ADDRESS: P.O. BOX 5077, SIOUX FALLS, SD 57117-5077. PHONE: (800) 331-6053. UNDERWRITING LIMITATION b/: $21,859,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

See Footnotes and Notes at the end of this Circular.

Westfield Insurance Company (NAIC #24112)
BUSINESS ADDRESS: P. O. BOX 5001, WESTFIELD CENTER, OH 44251-5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $30,926,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)
BUSINESS ADDRESS: P. O. BOX 5001, WESTFIELD CENTER, OH 44251-5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $8,998,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, IA, KY, MI, MN, NM, ND, OH, PA, SD, TN, TX, WV, WI. INCORPORATED IN: Ohio.

Westport Insurance Corporation (NAIC #34207)
BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66201-1391. PHONE: (913) 676-5781. UNDERWRITING LIMITATION b/: $28,046,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

XL Reinsurance America Inc. (NAIC #20583)
BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902-6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $100,554,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)
BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902-6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $7,496,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See Footnotes and Notes at the end of this Circular.

Zurich American Insurance Company (NAIC #16535)

BUSINESS ADDRESS: 1400 American Lane, Tower 1, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $208,095,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

GE Reinsurance Corporation (NAIC #22969)
BUSINESS ADDRESS: 540 W. Northwest Highway, Barrington, IL 60010. PHONE: (847) 277-5437. UNDERWRITING LIMITATION b/: $62,341,000.

NATIONAL REINSURANCE CORPORATION (NAIC #34835)
BUSINESS ADDRESS: 695 EAST MAIN STREET, P. O. BOX 10350, STAMFORD, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: $65,576,000.

NORTHBROOK PROPERTY AND CASUALTY INSURANCE COMPANY (NAIC #19224)
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $22,032,000.

Odyssey America Reinsurance Corporation (NAIC #23680)
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8019. UNDERWRITING LIMITATION b/: $50,335,000.

Odyssey Reinsurance Corporation (NAIC #25070)
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8019. UNDERWRITING LIMITATION b/: $48,712,000.

Phoenix Insurance Company (The) (NAIC #25623)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $77,133,000.

SAFECO Insurance Company of Illinois (NAIC #39012)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $12,550,000.

SAFECO National Insurance Company (NAIC #24759)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $5,396,000.

ZENITH INSURANCE COMPANY (NAIC #13269) 5
BUSINESS ADDRESS: 21255 CALIFA STREET, WOODLAND HILLS, CA 91367. PHONE: (800) 440-5020. UNDERWRITING LIMITATION b/: $30,981,000.

See Footnotes and Notes at the end of this Circular.

FOOTNOTES

1 AMERICAN CONTRACTORS INDEMNITY COMPANY is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY, assumed name of AMERICAN CONTRACTORS INDEMNITY COMPANY.

2 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

3 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

4 United Coastal Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

5 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis*. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a *bond of this type as an Excess Risk.* When Excess Risks on *bonds in favor of the United States are protected by reinsurance*, such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(c) A surety company *must be licensed in the State or other area in which it provides a bond*, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec.24, 1909; 31 CFR

See Footnotes and Notes at the end of this Circular.

Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the *principal resides*; where the *obligation is to be performed;* and in the *District of Columbia* where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.)
(NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state.* Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

See Footnotes and Notes at the end of this Circular.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama, Montgomery 36104	(334) 269-3550
Alaska, Anchorage 99503-5948	(907) 269-7900
Arizona, Phoenix 85018-7256	(602) 912-8400
Arkansas, Little Rock 72201-1904	(501) 371-2600
California, Sacremento 95814	(916) 492-3500
Colorado, Denver 80202	(303) 894-7499
Connecticut, Hartford 06142-0816	(860) 297-3800
D. C., Washington 20002	(202) 727-8000
Delaware, Dover 19904	(302) 739-4251
Florida, Tallahasse 32399-0300	(850) 413-2804
Georgia, Atlanta 30334	(404) 656-2056
Hawaii, Honolulu 96813	(808) 586-2790
Idaho, Boise 83720-0043	(208) 334-4250
Illinois, Springfield 62767-0001	(217) 782-4515
Indiana, Indianapolis 46204-2787	(317) 232-2385
Iowa, Des Moines 50319	(515) 281-5705
Kansas, Topeka 66612-1678	(785) 296-7801
Kentucky, Frankfort 40602-0517	(502) 564-6027
Louisiana, Baton Rouge 70802	(225) 342-5423
Maine, Augusta 04333-0034	(207) 624-8475
Maryland, Baltimore 21202-2272	(410) 468-2090
Massachusetts, Boston 02110	(617) 521-7301
Michigan, Lansing 48933-1020	(517) 335-3167
Minnesota, St. Paul 55101-2198	(612) 296-6025
Mississippi, Jackson 39201	(601) 359-3569
Missouri, Jefferson City 65101	(573) 751-4126
Montana, Helena 59601	(406) 444-2040
Nebraska, Lincoln 68508	(402) 471-2201
Nevada, Carson City 89706-0661	(775) 687-4270
New Hampshire, Concord 03301	(603) 271-2261
New Jersey, Trenton 08625	(609) 292-5360
New Mexico, Sante Fe 87504-1269	(505) 827-4601
New York, New York 10004-2319	(212) 480-2292
North Carolina, Raleigh 27611	(919) 733-3058
North Dakota, Bismarck 58505-0320	(701) 328-2440
Ohio, Columbus 43215-1067	(614) 644-2658
Oklahoma, Oklahoma City 73107	(405) 521-2828
Oregon, Salem 97310-3883	(503) 947-7980
Pennsylvania, Harrisburg 17120	(717) 783-0442
Puerto Rico, Santurce 00909	(787) 722-8686
Rhode Island, Providence 02903-4233	(401) 222-2223
South Carolina, Columbia 29201	(803) 737-6160
South Dakota, Pierre 57501-2000	(605) 773-3563
Tennessee, Nashville 37243-0565	(615) 741-2241

See Footnotes and Notes at the end of this Circular.

Texas, Austin 78701	(512) 463-6464
Utah, Salt Lake City 84114-1201	(801) 538-3800
Vermont, Montpelier 05620-3101	(802) 828-3301
Virgin Islands, St. Thomas 00802	(340) 774-7166
Virginia, Richmond 23218	(804) 371-9694
Washington, Olympia 98504-0255	(360) 664-8137
West Virginia, Charleston 25305-0540	(304) 558-3354
Wisconsin, Madison 53707	(608) 267-1233
Wyoming, Cheyenne 82002-0440	(307) 777-7401

See Footnotes and Notes at the end of this Circular.

[FR Doc. 03–16513 Filed 6–30–03; 8:45 am]
BILLING CODE 4810–35–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1045

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1045, Application for Tentative Refund.

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, Internal RevenueService, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Tentative Refund.

OMB Number: 1545–0098.

Regulation Project Number: 1045.

Abstract: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under Internal Revenue Code section 1341(b). The information obtained is used to determine the validity of the application.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 65,220.

Estimated Time Per Respondent: 12 hr., 44 min.

Estimated Total Annual Burden Hours: 830,251.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16602 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8613

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8613, Return of Excise Tax on Undistributed Income of Regulated Investment Companies.

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224 or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Tax on Undistributed Income of Regulated Investment Companies.

OMB Number: 1545–1016.

Form Number: 8613.

Abstract: Form 8613 is used by regulated investment companies to compute and pay the excise tax on undistributed income imposed under Internal Revenue Code section 4982. IRS uses the information to verify that the correct amount of tax has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business of other for-profit organizations.

Estimated Number of Respondents: 1,500

Estimated Time Per Respondent: 11 hr., 53 min.

Estimated Total Annual Burden Hours: 17,820.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16603 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–978–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–978–86, Information Reporting by Passport and Permanent Residence Applicants (§ 301.6039E–1(c)).

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins at (202) 622–3179, or at Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224 or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Reporting by Passport and Permanent Residence Applicants.

OMB Number: 1545–1359.

Regulation Project Number: INTL–978–86.

Abstract: This regulation requires applicants for passports and permanent residence status to report certain tax information on the applications. The regulation is intended to enable the IRS to identify U.S. citizens who have not filed tax returns and permanent residents who have undisclosed sources of foreign income to notify such persons of their duty to file United States tax returns.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents for Passport Applicants: 500,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Number of Respondents for Permanent Residence Applicants: 500,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours for Permanent Residence Applicants: 250,000 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16604 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041–QFT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1041–QT, U.S. Income Tax Return for Qualified Funeral Trusts.

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224 or through then Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Qualified Funeral Trusts.

OMB Number: 1545–1593.

Form Number: 1041–QFT.

Abstract: Internal Revenue Code section 685 allows the trustee of a qualified funeral trust to elect to report

and pay the tax for the trust. Form 1041–QFT is used for this purpose. The IRS uses the information on the form to determine that the trustee filed the proper return and paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 16 hr., 58 min.

Estimated Total Annual Burden Hours: 254,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16605 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5884

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5884, Work Opportunity Credit.

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224 or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Work Opportunity Credit.

OMB Number: 1545–0219.

Form Number: 5884.

Abstract: Internal Revenue Code section 38(b)(2) allows a credit against income tax to employers hiring individuals from certain targeted groups such as welfare recipients, etc. The employer uses Form 5884 to compute this credit. The IRS uses the information on the form to verify that the correct amount of credit was claimed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations and farms.

Estimated Number of Responses: 10,630.

Estimated Time Per Respondent: 9 hours, 49 minutes.

Estimated Total Annual Burden Hours: 104,281.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16606 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–D

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–D, United States Additional Estate Tax Return Under Code Section 2057.

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: United States Additional Estate Tax Return Under Code Section 2057.

OMB Number: 1545–1680.

Form Number: 706–D.

Abstract: A qualified heir will use Form 706–D to report and to pay the additional estate tax imposed by Code section 2057. Section 2057 requires an additional tax when certain ''taxable events'' occur with respect to a qualified family-owned business interest received by a qualified heir. IRS will use the information to determine that the additional estate tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 180.

Estimated Time Per Respondent: 2 hours, 50 minutes.

Estimated Total Annual Burden Hours: 512.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 18, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16607 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13441

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13441, Health Coverage Tax Credit Registration Form.

DATES: Written comments should be received on or before September 2, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Health Coverage Tax Credit Registration Form.

OMB Number: 1545–1842.

Form Number: 13441.

Abstract: Form 13441, Health Coverage Tax Credit Registration Form, will be directly mailed to all individuals who are potentially eligible for the HCTC. Potentially eligible individuals will use this form to determine if they are eligible for the Health Coverage Tax Credit and to register for the HCTC program. Participation in this program is voluntary. This form will be submitted by the individual to the HCTC program office in a postage-paid, return envelope. We will accept faxed forms, if necessary. Additionally, recipients may call the HCTC call center for help in completing this form.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 156,000

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 78,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: June 24, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–16601 Filed 6–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office; Government Owned Invention Available for Licensing

AGENCY: Research and Development Office, DVA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Mindy Aisen, MD, Department of Veterans Affairs, Director Technology Transfer Program, Research and Development Office, 810 Vermont Avenue NW., Washington, DC 20420; fax: 202–254–0473; email at *mindy.aisen@mail.va.gov.* Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: 10/360,720 ''Method of Inhibiting Angiogenesis and Neuroblastoma Growth with α and β Isoforms of Neu Differentiation Factor (NDF α and NDF β).

Dated: June 20, 2003.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 03–16524 Filed 6–30–03; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 68, No. 126

Tuesday, July 1, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15119; Airspace Docket No. 03–AGL–06]

Proposed Establishment of Class E Airspace; Viroqua, WI

Correction

In proposed rule document 03–15674 beginning on page 36949 in the issue of Friday, June 20, 2003 make the following correction:

§ 71.1 [Corrected]

On page 36950, in § 71.1, in the first column, under the heading ''**AGL WI E5 Viroqua, WI [New]**'' in the second line, ''(Lat. 43°34′47″4 N., '' should read ''(Lat. 43°34′47″ N.,''.

[FR Doc. C3–15674 Filed 6–30–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
July 1, 2003

Part II

Department of Homeland Security

Coast Guard

33 CFR Parts 101, 102, 103, et al.

46 CFR Parts 2, 31, 71, et al.

National Maritime Security Initiatives; Area Maritime, Vessel, Facility, and Outer Continental Shelf Security; Automatic Identification System, Vessel Carriage Requirement; Temporary Interim Rules Automatic Identification System, Expansion of Carriage Requirements for U.S. Waters; Notice

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101 and 102

[USCG–2003–14792]

RIN 1625–AA69

Implementation of National Maritime Security Initiatives

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments and notice of meeting.

SUMMARY: The Coast Guard has published a series of six interim rules in today's **Federal Register** to promulgate maritime security requirements mandated by the Maritime Transportation Security Act of 2002. The six interim rules consist of: Implementation of National Maritime Security Initiatives; Area Maritime Security; Vessel Security; Facility Security; Outer Continental Shelf Facility Security; and Automatic Identification System. In addition to the Automatic Identification System interim rule, we have issued a separate request for comments for further expanding the implementation of the Automatic Identification System. The series of interim rules addresses security assessments and plans, as well as other security standards, measures, and provisions that, with the exception of Automatic Identification System, will be codified in the new subchapter H of Title 33 of the Code of Federal Regulations.

This interim rule, the Implementation of National Maritime Security Initiatives, establishes the general regulations for subchapter H. It does so by providing a comprehensive discussion of industry-related maritime security requirements and a summary of the cost and benefit assessments of the entire suite of interim rules. The alignment of domestic maritime security requirements with the International Ship and Port Facility Security Code and recent amendments to the International Convention for the Safety of Life at Sea is also addressed here.

The discussions provided within each of the other five interim rules are limited to the specific requirements they contain.

DATES: Effective date. This interim rule is effective from July 1, 2003 until November 25, 2003. On July 1, 2003, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this rule.

Comments. Comments and related material must reach the Docket Management Facility on or before July 31, 2003. Comments on collection of information sent to the Office of Management and Budget (OMB) must reach OMB on or before July 31, 2003.

Meeting. A public meeting will be held on July 23, 2003, from 9 a.m. to 5 p.m., in Washington, DC.

ADDRESSES: Comments. To ensure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically to the Docket Management System at *http://dms.dot.gov.*

(2) By mail to the Docket Management Facility (USCG–2003–14792) at the U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

Meeting. A public meeting will be held on July 23, 2003 in Washington, DC at the Grand Hyatt Washington, DC, 1000 H Street, NW., Washington, DC 20001.

Availability. You may inspect the material incorporated by reference at room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–0257. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Commander Suzanne Englebert (G–M–1), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: Due to the short timeframe given to implement these National Maritime Transportation Security initiatives, as directed by the Maritime Transportation Security Act (MTSA) of 2002 (MTSA, Public Law 107–295, 116 Stat. 2064), and to ensure all comments are in the public venue for these important rulemakings, we are not accepting comments containing protected information for these interim rules. We request you submit comments, as explained in the Request for Comments section below, and discuss your concerns or support in a manner that is not security sensitive. We also request that you not submit proprietary information as part of your comment.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may also review the Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue before November 25, 2003, to replace this interim rule. If you choose to comment on this rule, please include your name and address, identify the specific docket number for this interim rule (USCG–2003–14792), indicate the specific heading of this document to which each comment applies, and give the reason for each comment. If you have comments on another rule please submit those comments in a separate letter to the docket for that rulemaking.

You may submit your public comments and material electronically, by fax, by delivery, or by mail to the Docket Management Facility at the address under **ADDRESSES.** Please submit

your public comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Public Meetings

We will hold a public meeting on July 23, 2003, in Washington, DC at the Grand Hyatt Hotel, at the address listed under **ADDRESSES.** The meeting will be from 9 a.m. to 5 p.m. to discuss all of the maritime security interim rules, and the Automatic Identification System (AIS) interim rule, found in today's **Federal Register**. In addition, you may submit a request for other public meetings to the Docket Management Facility at the address under **ADDRESSES** explaining why another one would be beneficial. If we determine that other meetings would aid this rulemaking, we will hold them at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rulemaking and are making this rule effective upon publication. Section 102(d)(1) of the MTSA requires the publication of an interim rule as soon as practicable without regard to the provisions of chapter 5 of title 5, U.S. Code (Administrative Procedure Act). The MTSA also states that any interim rule issued to implement its provisions shall expire on November 25, 2003, unless it has been superseded by a final regulation. The Coast Guard finds that harmonization of U.S. regulations with maritime security measures adopted by the International Maritime Organization (IMO) in December 2002, and the need to institute measures for the protection of U.S. maritime security as soon as practicable, furnish good cause for this interim rule to take effect immediately under both the Administrative Procedure Act and section 808 of the Congressional Review Act.

Background and Purpose

In the aftermath of September 11, 2001, the Commandant of the Coast Guard reaffirmed the Coast Guard's Maritime Homeland Security mission and its lead role—in coordination with the Department of Defense; Federal, State, and local agencies; owners and operators of vessels and marine facilities; and others with interests in our nation's Marine Transportation System—to detect, deter, disrupt, and respond to attacks against U.S. territory, population, vessels, facilities, and critical maritime infrastructure by terrorist organizations.

In November 2001, the Commandant of the Coast Guard addressed the IMO General Assembly, urging that body to consider an international scheme for port and shipping security. Recommendations and proposals for comprehensive security requirements, including amendments to International Convention for Safety of Life at Sea, 1974, (SOLAS) and the new ISPS Code, were developed at a series of intersessional maritime security work group meetings held at the direction of the IMO's Maritime Safety Committee.

The Coast Guard submitted comprehensive security proposals in January 2002 to the intersessional maritime security work group meetings based on work we had been coordinating since October 2001. Prior to each intersessional meeting, the Coast Guard held public meetings as well as coordinated several outreach meetings with representatives from major U.S. and foreign associations for shipping, labor, and ports. We also discussed maritime security at each of our Federal Advisory Committee meetings and held meetings with other Federal agencies having security responsibilities.

In January 2002, the Coast Guard also held a 2-day public workshop in Washington, DC, attended by more than 300 individuals, including members of the public and private sectors, and representatives of the national and international marine community (66 FR 65020, December 17, 2001; docket number USCG–2001–11138). Their comments indicated the need for specific threat identification, analysis of threats, and methods for developing performance standards to plan for response to maritime threats. Additionally, the public comments stressed the importance of uniformity in the application and enforcement of requirements and the need to establish threat levels with a means to communicate threats to the Marine Transportation System.

At the Marine Safety Committee's 76th session and subsequent discussions internationally, we considered and advanced U.S. proposals for maritime security that took into account this public and agency input. The Coast Guard considers both the SOLAS amendments and the ISPS Code, as adopted by IMO Diplomatic Conference in December 2002, to reflect current industry, public, and agency concerns. The entry into force date of both the ISPS Code and related SOLAS amendments is July 1, 2004, with the exception of the Automatic Identification System (AIS) whose implementation for vessels on international voyages was accelerated to no later than December 31, 2004, depending on the particular class of SOLAS vessel.

Domestically, the Coast Guard had previously developed regulations for security of large passenger vessels that are contained in 33 CFR parts 120 and 128. Complementary guidance can be found in Navigation and Vessel Inspection Circular (NVIC) 3–96, Change 1, Security for Passenger Vessels and Passenger Terminals. Prior to development of additional regulations, the Coast Guard, with input from the public, needed to assess the current state of port and vessel security and their vulnerabilities. As mentioned previously, to accomplish this, the Coast Guard conducted a public workshop January 28–30, 2002, to assess existing Marine Transportation System security standards and measures and to gather ideas on possible improvements. Based on the comments received at the workshop, the Coast Guard cancelled NVIC 3–96 (Security for Passenger Vessels and Passenger Terminals) and issued a new NVIC 4–02 (Security for Passenger Vessels and Passenger Terminals), developed in conjunction with the International Council of Cruise Lines, that incorporated guidelines consistent with international initiatives (the ISPS Code and SOLAS). Additional NVICs were also published to further guide maritime security efforts, including NVIC 9–02 (Guidelines for Port Security Committees, and Port Security Plans Required for U.S. Ports), NVIC 10–02 (Security Guidelines for Vessels); and NVIC 11–02 (Security Guidelines for Facilities). The documents are available in the public docket (USCG–2002–14069) for review at the locations under **ADDRESSES.**

On November 25, 2002, President George W. Bush signed into effect Public Law 107–295, MTSA, 2002, which had been proposed to Congress the year before as the Port and Maritime Security Act (S. 1214). The MTSA requires the Secretary to issue an interim rule, as soon as practicable, as a temporary regulation to implement the Port Security section of the Act. The MTSA expressly waives the requirements of the Administrative Procedure Act, including notice and comment, for this purpose.

Nevertheless, the Coast Guard, in coordination with other agencies of the Department of Homeland Security

(DHS) (*e.g.*, the Transportation Security Administration (TSA)) and the Department of Transportation (*e.g.*, the Maritime Administration (MARAD)), held seven public meetings in areas of high maritime interest to engage the public in discussions about the impact of its maritime security requirements. Prior to issuing this interim rule, the Coast Guard wanted to receive preliminary comments that helped to structure the rulemakings published today. The seven public meetings were announced in a ''notice of meeting; request for comment'' document that was published in the **Federal Register** on December 20, 2002 (67 FR 78742). The comprehensive notice of meeting requested comments addressing 40 issues as well as comments on the concepts presented in the ISPS Code and the MTSA. Comments made during the public meetings and those submitted to the public docket are available in the public docket (USCG–2002–14069) for review at the locations under **ADDRESSES.** A discussion of these comments is contained in this preamble under the *Discussion of Comments to Maritime Security Public Meetings.* The Coast Guard plans to publish a final rule by November 2003. This date is critical to meeting the timeline set in the MTSA for finalizing these security requirements. It is just as critical in order to uniformly implement the ISPS Code and SOLAS amendments.

To comply with the mandates of the MTSA, the Coast Guard is implementing portions of section 102 of the MTSA (46 U.S.C. sections 70102, 70103b through 70103d, 70104, 70114, and 70117) through this and a series of five other interim rules published elsewhere in today's **Federal Register**. Within this common preamble, we will generally discuss each of the six interim rules. This common preamble will also discuss the National Maritime Transportation Security Plan, found in 46 U.S.C. 70103a, transportation security cards, found in 46 U.S.C. 70105, and foreign port assessments, found in 46 U.S.C. 70108, as they relate to the requirements established in the six interim rules.

Organization

As already stated, we have segmented the maritime security regulations into six separate interim rules. The entire series of rulemakings establishes a new subchapter H, containing six new parts, in Title 33 of the Code of Federal Regulations. For the ease of reading and comprehension, the rulemakings were written to highlight each segment of the maritime community and structured based on the organization of the regulations rather than in one single interim rule. A brief description of each of the six interim rules follows:

1. *Implementation of National Maritime Security Initiatives.* This general discussion includes the introduction of the new subchapter H into Title 33 of the Code of Federal Regulations. It also discusses the General Provisions within part 101 of that subchapter, and reserves part 102 for the National Maritime Security plan and Advisory Committee requirements. This discussion covers the overall methodology we used to determine the appropriate application of security measures in accordance with the MTSA. A summary of the costs and benefits associated with implementing security requirements used for subchapter H are presented as well as a discussion of the security-related benefit for AIS. The requirements set out in this interim rule include the definitions for the entire subchapter and the provisions that pertain to all parts. It is strongly recommended that this interim rule be read prior to consulting one or more of the other specific parts or the AIS interim rule, which are published elsewhere in today's **Federal Register**, to ensure terms and applicability issues are understood. Additionally, the preamble to this interim rule includes a discussion of the comments made during the public meetings held on Maritime Security in January and February of 2003 and the comments submitted to the docket [USCG–2002–14069] that were received by February 28, 2003. All comments received after February 28, 2003, will be considered prior to the issuance of the final rules.

2. *Area Maritime Security (AMS).* The discussion in the preamble of the ''Area Maritime Security'' (USCG–2003–14733) interim rule found elsewhere in today's **Federal Register** relates to the provisions within part 103 of subchapter H. Discussions about cost and benefit assessment for the Area Maritime Security regulations are also found in the Area Maritime Security preamble.

3. *Vessel Security.* The discussion in the preamble of the ''Vessel Security'' (USCG–2003–14749) interim rule found elsewhere in today's **Federal Register** relates to the provisions within part 104, titled Vessel Security, of subchapter H. It also includes a discussion of the additional parts of 33 CFR and 46 CFR amended or revised by the Vessel Security interim rule. Discussions about cost and benefit assessments for the vessel security regulations are found in the preamble of the interim rule ''Vessel Security.''. Consistent with customary international law, the requirements in part 104 do not apply to vessels engaged in innocent passage through the territorial sea of the U.S. or in transit passage through the navigable waters of the U.S. that form part of an international strait.

4. *Facility Security.* The discussion in the preamble of the ''Facility Security'' (USCG–2003–14732) interim rule found elsewhere in today's **Federal Register** relates to the provisions within part 105, titled Facility Security, of subchapter H. Discussions about cost and benefit assessments for the facility security regulations are found in the preamble of the interim rule ''Facility Security.''

5. *Outer Continental Shelf (OCS) Facility Security.* The discussion in the preamble of the ''Outer Continental Shelf Facility Security'' (USCG–2003–14759) interim rule found elsewhere in today's **Federal Register** relates to the provisions within part 106, titled ''Outer Continental Shelf Facility Security,'' of subchapter H. Discussions about cost and benefit assessments for the OCS facility security regulations are found in the preamble of the interim rule ''Outer Continental Shelf Facility Security.''

6. *Automatic Identification Systems (AIS).* The discussion in the preamble of the ''Automatic Identification System; Vessel Carriage Requirement'' (USCG–2003–14757) interim rule found elsewhere in today's **Federal Register** relates to the provisions within 33 CFR parts 26, 161, 164, and 165. These requirements relate to the fitting of AIS on certain vessels as mandated in 46 U.S.C. 70114 and MTSA section 102(e). Discussions about cost and benefit assessments for the AIS regulations with respect to both safety and security are found in the preamble of the interim rule ''Automatic Identification System; Vessel Carriage Requirement.''

Coordination With the SOLAS Requirements

For each interim rule, the requirements of the MTSA Section 102 align, where appropriate, with the security requirements embodied in the SOLAS amendments and the ISPS Code; however, the MTSA has broader application that includes domestic vessels and facilities. Thus, where appropriate, the Coast Guard intends to implement the MTSA through the requirements in the SOLAS amendments and the ISPS Code, parts A and B, for all vessels and facilities that are currently required to meet SOLAS, as well as those vessels on international voyages that fall below the mandated 500 gross tonnage, ITC (International Convention on Tonnage Measurement of Ships, 1969 (ITC)) threshold and facilities that are at risk of being

involved in a transportation security incident. Further discussion on this risk and how we developed and assessed it for the maritime community is presented in the Applicability of National Maritime Security Initiatives discussion in this preamble.

In aligning the MTSA Section 102 requirements with the SOLAS amendments and the ISPS Code security requirements, we consider that the implementation of these requirements is best done through mandating compliance with the SOLAS amendments and the ISPS Code. The Coast Guard considers ISPS Code, part B, an essential element to ensure full and effective compliance with the intent of the MTSA. Foreign flag vessels entering the U.S. will be expected to carry valid International Ship Security Certificates (ISSC) and have the security plans fully implemented. The relevant provisions in ISPS Code, part B, will be taken into account by Port State Control Officers to assess if the security plan is fully implemented as required by the interim rules found elsewhere in today's **Federal Register**. The flag administration may also choose to provide a document or endorsement to the ISSC to verify that the security plan was based upon full compliance with the relevant provisions of ISPS Code, part B, to assist Coast Guard Port State Control Officers. We intend to implement strong Port State Control measures to aggressively enforce these regulations that will include tracking the performance of all owners, operators, flag administrations, recognized security organizations, charterers, and port facilities. Noncompliance will subject the vessel to a range of control and compliance measures, which could include denial of entry into port or significant delay. We will strictly enforce compliance with SOLAS and the ISPS Code for foreign SOLAS vessels, including assessing the risks posed by such vessels and any control measures that may be required when they call on foreign port facilities that do not comply with SOLAS and the ISPS Code, and we will similarly ensure that other vessels or port facilities covered by these regulations meet the requirements of this subchapter. A vessel's or port facility's history of compliance, or lack thereof, or security incidents involving a vessel or port facility, will be important factors in determining what actions are deemed appropriate by Coast Guard Port State Control Officers to ensure that maritime security is preserved. As mentioned, the performance of the owner, operator, flag administration, recognized security organization, charterer, or port facility related to maritime security will also be some of the other factors that will be considered for the enforcement of maritime security in the U.S.

In addition to tracking performance, the Coast Guard's Port State Control program will also closely scrutinize an Administration's designation of recognized security organizations to ensure that those organizations fully meet the competencies and qualifications in the ISPS Code. Vessels with International Ship Security Certificates issued by recognized security organizations that are not properly designated, or that do not meet the required competencies and qualifications, will be subject to strict control measures, including possible expulsion from port and denial of entry into the United States. Therefore, it is imperative that Administrations carefully evaluate an organization through a rational process, adhering to the stringent criteria in the ISPS Code and any future standards that are developed by IMO, before designating the organization as a recognized security organization and delegating certain security functions to it.

The requirements for the AIS interim rule found elsewhere in today's **Federal Register** align with the recent amendments to SOLAS Chapter V, Regulation 19 that were adopted during the IMO Diplomatic Conference in December 2002 and the MTSA (specifically, MTSA sec. 102(e) and 46 U.S.C. 70114).

Impact on Existing Domestic Requirements

Many current requirements for security exist that are impacted by the interim rules published in today's **Federal Register**. 33 CFR part 120, Security of Vessels, and 33 CFR part 128, Security of Passenger Terminals, currently exist but apply only to certain cruise ships. We do not intend to revise 33 CFR parts 120 or 128 in the Vessel Security interim rule found elsewhere in today's **Federal Register**. However, in the future, this part may be revised or entirely deleted. This will consolidate the security requirements for all vessels in subchapter H. If this change to 33 CFR part 120 is made, foreign vessels that are required to comply with part 120 will be required to meet the requirements of part 104 including § 104.295 *Additional requirements—Cruise Ships* and passenger terminals that are required to comply with part 128 will be required to meet part 105.

The requirements in the interim rules also refer to and amend certain parts of 46 CFR and 49 CFR to ensure certificate of inspection requirements and other sections pertaining to facilities will include the new subchapter H requirements.

Notice of arrival requirements found in 33 CFR 160 have also been amended in the Vessel Security interim rule found elsewhere in today's **Federal Register** to ensure security-related information is provided to appropriate authorities prior to a vessel's entry into port. Additionally, the Captain of the Port (COTP) authorities within 33 CFR have been revised to ensure security-related elements and authorities are clearly highlighted.

Applicability of National Maritime Security Initiatives

As required in section 102 of the MTSA (46 U.S.C. section 70102a), the Coast Guard conducted an assessment of vessel types and U.S. facilities on or adjacent to the waters subject to the jurisdiction of the U.S. to identify those vessel types and U.S. facilities that pose a high risk of being involved in a transportation security incident. The MTSA defines a transportation security incident as a security incident resulting in a significant loss of life, environmental damage, a disruption to the transportation system, or economic disruption in a particular area.

Method of Assessment

In October 2001, the U.S. Coast Guard urgently needed to prioritize vessels and facilities based on the vulnerabilities to potential security threats and the consequences of potential incidents. We used a systematic, scenario-based process known as Risk-Based Decision Making (RBDM) to meet those needs. RBDM ensured a comprehensive evaluation by considering the relative risks of various target and attack mode combinations or scenarios. This provided a more realistic estimation of risk (and more efficient risk management activities) than a simple ''worst-case outcome'' assessment where only the worst possible consequences were considered.

In addition, the RBDM approach was based on the recommendations from the U.S. General Accounting Office (GAO). Managing risk is one of the best tools to complete a security assessment and to determine appropriate security measures (GAO–01–822). The GAO recommended a comprehensive security threat and risk assessment process (GAO–01–1158T).

Another GAO report, *Homeland Security: A Risk Management Approach Can Guide Preparedness Efforts,* illustrated a scenario-based, risk

management approach as used within the private sector. This GAO report explained how a company successfully created a security plan using a risk-based approach. Like the company described in the GAO report, the Coast Guard's approach to commercial maritime security featured the systematic development and consideration of potential scenarios of concern. The generation of scenarios ensured completeness of the risk-based method (GAO/NSIAD–98–74).

Principles of Risk Management

Risk management principles acknowledge that while risk generally cannot be eliminated, it can be reduced. Risk reduction is done by adjusting operations to reduce consequences, threats, or vulnerability of a security threat (consequences, threats and vulnerability will be discussed later in this document). Generally, it is easier to reduce vulnerabilities by adding security measures than to reduce consequences or threats (although reductions in all three are possible).

Risk assessments provide visibility into those elements of the risk equation that exert the greatest influence on risk. Those elements become the priorities in the risk management approach. The goal for maritime security is to ensure that if the level of threat increases, either the consequences or vulnerabilities decrease enough to offset that increase.

Process of Developing Maritime Security Risk Assessments

First, to look at risk from the port level, local experts in the area of commercial maritime safety and security met with a team of professional risk consultants. Together we developed the *Port Security Risk Assessment Tool* (PS–RAT). The PS–RAT was provided to local authorities to evaluate vessels, facilities and infrastructure within their areas of responsibility for a variety of threat scenarios. The approach used for the PS–RAT was as previously described and advocated by GAO, where risk was assessed in terms of threat, vulnerability and consequence. The PS–RAT was initially implemented Coast Guard wide on 16 November 2001 and the individual COTPs completed baseline risk assessments on vessels, facilities, and infrastructure within their area of responsibility. Nationwide, the local assessors evaluated nearly 5200 scenarios on more than 2000 unique assets and infrastructure elements.

Second, at the area level, regional Coast Guard and other maritime experts in the area of commercial maritime safety and security compiled and analyzed the local level PS–RAT results to gain a better understanding of the security risks affecting their Coast Guard Districts and Areas. This assessment identified some recurring scenarios and common issues that needed to be addressed beyond the local level. It also helped clarify the need for another tool with a wider perspective that would be capable of evaluating risks at the national level.

Because of the local, relative nature of these assessments the PS–RAT did not support the national comparisons that were necessary for strategic planning. To accomplish strategic planning at the national level, a third team of Coast Guard subject matter and risk experts produced the *National Maritime Homeland Security Risk Assessment Tool.* Referred to in maritime circles as the *National Risk Assessment Tool* (N–RAT), the N–RAT provided a foundation for risk-based prioritization and subsequent regulatory assessment closely aligned with the guidance on conducting security risk assessments recommended by the GAO (GAO/NSIAD–98–74, GAO–02–150T, GAO–03–616T). The results of the N–RAT provided a national evaluation of the relative security risk facing the Marine Transportation System of the U.S. The experts compared the results from the national assessment with the previously performed local assessments (PS–RAT) to ensure that consistent assumptions were made and that comparable measures of risk were produced.

What Was Assessed

The Coast Guard used the N–RAT to determine risks associated with specific threat scenarios against various classes of targets within the Marine Transportation System. The targets considered included vessels, facilities, waterways, and marine-related transportation systems. This allowed the Coast Guard to systematically consider all segments of the commercial maritime community to evaluate their potential for being involved in a transportation security incident.

Maritime Security Incident Scenarios

The scenarios considered each element within the maritime community with respect to three general exposures: Susceptibility as a target; Use as a means of transferring or enabling the transfer of terrorists or terrorism-related materials; and Use of vessel or facility as a weapon.

The three above-mentioned general threat scenarios integrate multiple circumstances considered as specific attack modes. That is, there are subordinate scenarios under each general scenario. For example in the basic threat scenario of ''susceptibility as a target'', a ''boat loaded with explosives exploding alongside a docked tank vessel'' is one attack mode while ''tank vessel being commandeered and intentionally damaged'' is another.

The N–RAT included over 50 target classes and 12 specific attack modes. This resulted in a matrix consisting of over 600 possible target/attack scenarios. Next, the 600 scenarios were screened for credibility by the expert panel. The credibility of a threat was based on the plausibility of an enemy actually carrying out the attack mode. For example, the ''use as a means of transferring or enabling the transfer of terrorists or terrorism-related materials;'' scenarios were screened out as ''not credible attack modes'' for military targets due to the inherent security measures in place. However, external attacks on these same targets were considered to be credible and were evaluated by the team. To balance comprehensiveness with efficiency, all scenarios were considered but only those scenarios deemed credible by the expert panel were further evaluated for risk.

Each credible threat scenario was evaluated by the panel of experts to determine the risk associated with a given attack against a specific target. The evaluation is based on a model showing the possible outcomes from any potential transfer or attack mode. Using previously cited GAO guidance in this area; the N–RAT risk was modeled as a function of the threat, vulnerability and consequences associated with each target/attack scenario. Each element is explained in the following sections. We realize that the terms used to identify each element may have recognized meanings in other contexts. In order to reduce confusion, we have included, as the first sentence in each element's discussion, the meaning associated with these terms for the purposes of the N–RAT.

Threat

The term ''threat'' is a measure of the likelihood of an attack. It represents the perceived probability of an attack based on maritime domain awareness and the existence of intelligence.

Within the N–RAT, five threat levels were identified. The threat magnitude was described, and scoring benchmarks were provided for each level. Each benchmark of threat intensity was assigned a probability of occurrence for use in risk calculations. For each scenario, the experts estimated the threat associated with an attack after considering the intent of hostile groups, prior security incidents, the capability

to carry out the attack mode and any intelligence that indicated an organization was planning an attack. Lacking specific, credible intelligence that would allow an increase or reduction in the threat score for a specific attack mode, this was fixed at a constant value consistent with the Maritime Security (MARSEC) Levels previously established by the Coast Guard. The baseline assumption was that terrorist cells were operating with unknown targets and methods of attack. Changes in MARSEC Levels or specific, credible intelligence would trigger an appropriate modification in threat.

Vulnerability

The term ''vulnerability'' measures the conditional probability of success given that a threat scenario occurs. It evaluates the adequacy and effectiveness of safeguards (both existing and proposed).

For the N–RAT, an attack was estimated as likely to succeed only if: the target was available, the target was physically accessible to be attacked, organic security associated with the target would not detect and defeat the intended attack, and the mode of attack would be capable of producing the intended consequences by overcoming the inherent safeguards designed into the system.

If all of the above mentioned barriers fail to halt the intended attack, then the attack would result in one or more outcomes. Outcomes ranged from relatively minor to catastrophic levels. The above mentioned four elements described the targets' overall vulnerability and were scored by the expert team.

The availability of a target measured its presence and predictability as it relates to an enemy's ability to plan and conduct an attack. The accessibility of a target, evaluated its physical deterrence (*i.e.*, location, perimeter fencing, *etc.*) against different attack modes. It related to physical and geographic barriers that deter the threat without organic security. Organic security of a target assessed the ability of the target's security measures to deter the attack. It included security plans, communication capabilities, guard forces, intrusion detection systems, and ability of outside law enforcement to prevent the attack. Target hardness was a measure of the ability of a target to withstand attack. It is based on the complexity of target design and material construction characteristics.

Each vulnerability type was scored over five levels of magnitude (1–5—lowest to highest). Again, scoring benchmarks were used to help ensure consistency. Each level of magnitude in every vulnerability category was assigned a probability of allowing an attack mode to proceed. The probability for each vulnerability category was factored, along with the threat probability, in risk calculations to determine the probability term of the risk equation. The individual probabilities were then multiplied together to derive the overall probability assessment for the target/attack scenario under consideration.

Consequence

The term ''consequence'' is the estimation of adverse effect from the target/attack scenario and is an important consideration in risk evaluation and security planning. Six categories of effects were considered in evaluating the consequence of an attack: death/injury, economic, environmental, national defense, symbolic effect, and secondary (follow-on) national security threat. Inherent in this consideration was the criticality of the target. For each effect category, five levels of severity were described, and scoring benchmarks are provided. Unlike vulnerability, each severity level was assigned a common consequence value for use in risk calculations. For example, the most severe economic impact consequences were considered equivalent to the most severe death/injury and symbolic effect consequences. The selected level for each factor was then converted to a representative value of potential loss for the consequence factor. These consequence scores were then summed across all appropriate categories to develop the consequence values for the target/attack scenario combination.

The estimated probability and consequence values were multiplied to calculate the overall risk for each target/attack scenario. This is essentially an estimate of the expected losses should a specific target/attack scenario occur.

Assessment Results

The following graph is a demonstration of the type of the relative-risk results the N–RAT gave. Specific results, including scores, have been designated as sensitive security information (SSI). This graph simply displays the relationship between some types/classes of vessels and facilities or port infrastructure based on their relative risk. In each line, the parenthetical (I) and (D) stands for ''international'' or ''domestic,'' respectively.

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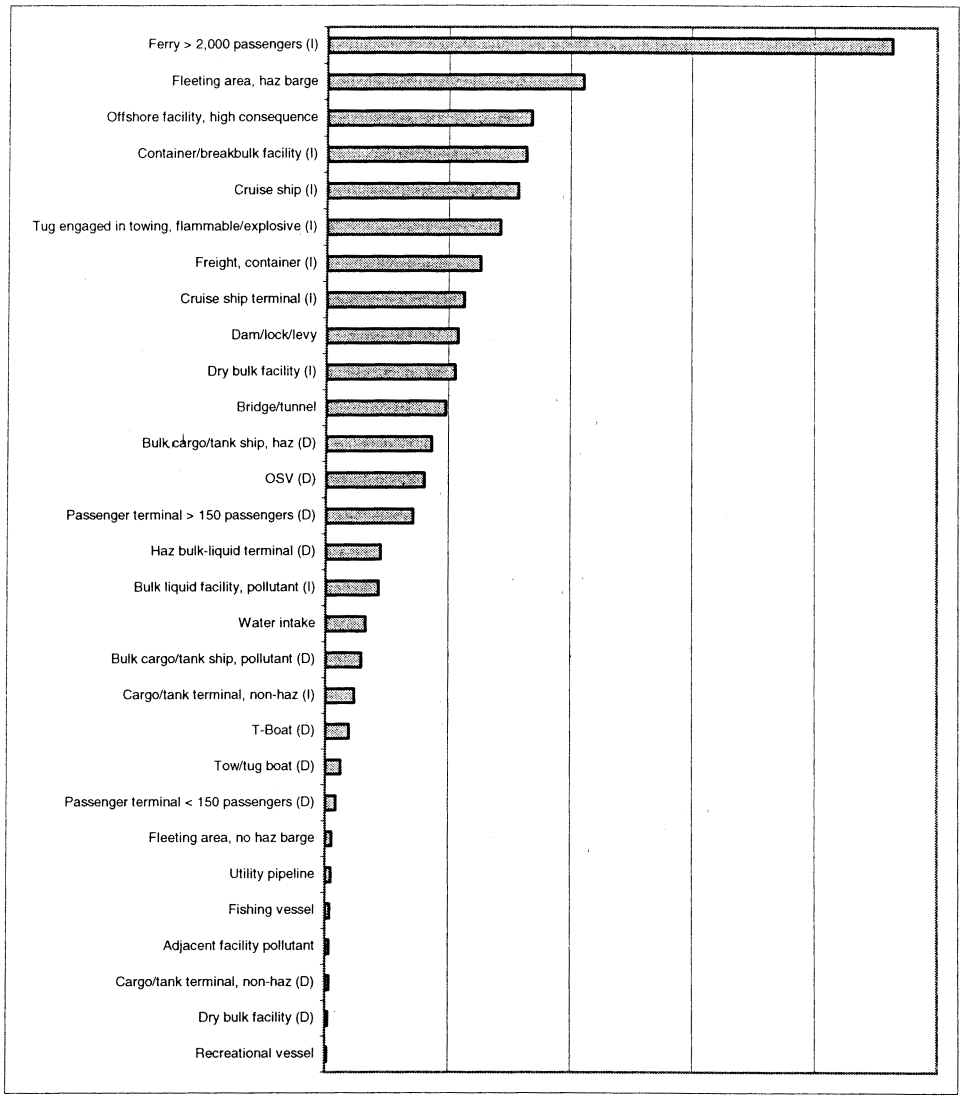
Table 1: Demonstration of N-RAT Relative Risk Ranking.



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Below is a summary of the application requirements for these interim rules based on the N–RAT results:

Applicability Evaluation for Ports

The N–RAT results focused on individual vessel types and facilities subject to the authority of the Coast Guard. Scenarios were also developed that involved port transportation infrastructure that is vital to the port communities such as bridges, channel openings, and tunnels. This evaluation led to the conclusion that many structures within a port are also at risk of a transportation security incident and therefore should be covered by security measures. Therefore, we determined it would be appropriate to include specific guidance in part 103 to have the Area Maritime Security (AMS) Plan address these types of transportation infrastructure as well as those smaller vessels or facilities that fall below the transportation security incident threshold. This application for the AMS ensures all maritime concerns are assessed and security is systematically evaluated nationwide.

Applicability Evaluation for Vessels

The N–RAT results indicate the following vessel types are at a high risk of a transportation security incident and therefore are required to meet specific security measures as laid out in part 104 of subchapter H:

- All ships, both cargo and passenger, that are subject to SOLAS;
- All vessels greater than 100 gross register tons that are subject to 46 CFR subchapter I (this includes vessels on the Great Lakes);
- All barges subject to 46 CFR subchapter I engaged on an international voyage;
- All domestic passenger vessels subject to 46 CFR subchapters H and K;
- All barges, regardless of route, which are subject to 46 CFR subchapter D and O;
- All tank ships, regardless of route, which are subject to 46 CFR subchapters D and O;
- All Mobile Offshore Drilling Units (MODUs) subject to 46 CFR subchapter I–A;
- All vessels subject to 46 CFR subchapter L;
- All towing vessels greater than 8 meters in registered length that are engaged in towing barges which are subject to 46 CFR subchapter D & O; and
- All towing vessels greater than 8 meters in registered length that are

engaged in towing barges that are subject to 46 CFR subchapter I on an international voyage.

The N–RAT results indicate that the following vessel types are at a lower risk of a transportation security incident and are therefore subject to parts 101 through 103 of subchapter H:

- Uninspected vessels, unless otherwise noted;
- Domestic small passenger vessels certificated under 46 CFR subchapter T;
- Barges subject to 46 CFR subchapter I engaged exclusively on domestic voyages;
- Towing vessels engaged in towing 46 CFR subchapter I barges not on international voyages;
- Vessels certificated under 46 CFR subchapter I engaged exclusively on domestic voyages;
- Fleeting tugs or harbor tugs; and
- Other vessels not specifically addressed in part 104 (as an example, recreational vessels).

The inclusion of towing vessels (traditionally included with other uninspected vessels) was done because these vessels interface with and are responsible for the movement of barges that carry higher consequence cargoes, such as Certain Dangerous Cargoes (CDCs). When scored on the N–RAT, the high consequence of the barge cargoes significantly adds to the risk of a transportation security incident for the towing vessel.

The N–RAT was not able to provide the sensitivity needed to assess certain elements of the definition of a transportation security incident. For example, the transportation security incident calls for a determination of what the term ''significant loss of life'' should be or where the threshold for an ''economic disruption in a particular area'' should be placed. In order to determine these elements of a transportation security incident, the Coast Guard used the N–RAT model itself as a guide along with a comparison with other transportation modes. We also used the preliminary intermodal comparison work of the other agencies of the DHS (*e.g.,* TSA).

First, using the N–RAT, we assessed what consequences or combination of consequences would result given a vessel, facility, or port structure that had a high baseline vulnerability. Recalling from the previous N–RAT explanation that the consequence assessment portion of the N–RAT evaluation was based on six categories and five levels (as shown in Table 2), we looked at the numerical results of a scenario when given some vulnerability benefits assumed for implemented AMS Plans, and other general security measures in place for a port.

TABLE 2.—CONSEQUENCE

Consequence category—Level	Death/injury	Economic impact	Environmental impact	National defense	Symbolic effect	Follow-on HLS threat
Catastrophic						
High						
Medium						
Moderate						
Low						

The results showed that a score of at least one consequence factor at the ''Catastrophic'' level or a combination of two ''High'' scores could not be offset by the vulnerability reduction achieved by the AMS Plan or general port security efforts. The risk to these types of vessels, facilities, or port structures would need further vulnerability reduction to get out of the potentially ''Catastrophic'' or ''High'' consequence arena. This then, is the threshold that the Coast Guard determined could be considered a transportation security incident.

To further determine the thresholds of a transportation security incident with respect to the ''loss for life'' category, the Coast Guard compared the potential loss of life between various transportation modes and various operations. To look at the ''economic disruption'' category of transportation security incident as well as its other elements, we looked at damage and casualty data to determine if comparisons between modes could be used to formulate thresholds based on vessel size.

Passenger Vessel Threshold Determination

To compare potential loss of life between transportation modes, we examined probable fatalities given an accident to the air, rail, or maritime mode. The first step in this process included a comparison of the current regulatory and operational thresholds that currently exist in each industry.

In aviation, regulations cover aircraft carrying 20 or more passengers as a commuter airline (14 CFR part 125). Most commercial aircraft are larger than this smaller commuter, with 69 percent of the U.S. market dominated by an aircraft with a capacity of 189 passengers.

In rail, we considered transit service (light, heavy, or commuter) and long-haul rail travel. Light rail can carry up to 150 passengers in each car of the train. Heavy rail cars typically carry 100 passengers, though they can carry twice that many during periods of peak traffic. Commuter rail cars carry an average of 125 passengers, with peak capacities of over 200 passengers per car for certain seating configurations. Inter-city rail passenger coaches typically carry about 80 passengers per car depending on the configuration. The average train length is reported to be 6 to 8 cars.

In the maritime passenger trade, we have small passenger vessels, commuter ferries of all sizes, large passenger vessels, and cruise ships. The average passenger capacity on small passenger vessels is 49. The average capacity for commuter ferries is 587 and for large passenger vessels the average capacity is 1154 passengers.

Looking at casualty statistics for these three modes and different passenger operations, we estimated the probable fatalities given a successful transportation security incident occurred. We assume that, in general, a transportation security incident would have a higher fatality rate than that of an accident because of the hostile motivation behind perpetrators' actions deliberately produce more severe consequences. For aircraft, the more severe airline crashes were used to estimate the transportation security incident fatality rate. The hostile intent

may also render certain safety measures less effective in a transportation security incident compared to their demonstrated performance in an accident. We also considered average occupancy rates for each mode into the calculations to estimate a relative potential loss of life comparison. The table below compares the average estimated fatality rates across modes for various passenger-carrying operations.

TABLE 3.—COMPARISON OF ESTIMATED FATALITIES BY MODE AND TYPE OF INCIDENT

Mode	Representative passenger capacity (potential fatalities)	Estimated average occupancy (percent of capacity)	Estimated average occupancy (number of passengers)	Fatality average rate [1] (in percent)		Estimated average fatalities	
				Accident	TSI	Accident	TSI
Air (14 CFR 135) Commuter Plane	80	78	62	74	80	46	50
Air (14 CFR 121) Large Pass. Plane	189	75	142	74	80	105	113
Rail (single commuter car)	180	66	119	5	25	6	30
Rail (6 car commuter Train)	1080	66	713	5	25	36	178
Rail (8 car long-haul Pass. Train)	640	66	422	5	25	21	106
Maritime [2]. (Subchapter H) Large Pass. Vessels (>100 GT)	1154	72	831	32	46	266	382
Maritime [2] (Ferries—Sub. H & K)	587	72	423	32	46	135	194
Maritime [2] (Subchapter T) Small Pass. Vessels (<150 pax.)	49	72	35	32	46	11	16

[1] Accident data from the National Transportation Safety Board and USCG.
[2] Typical passenger capacity for USCG Documented vessels.

Table 3 shows that per plane/rail-car/vessel, the estimated loss of life from a transportation security incident is estimated to range from a low of 16 per a typical small passenger vessel to a high of 382 for large passenger vessels. The Coast Guard determined that based on the above comparison and the results of the N–RAT vulnerability scores for vessels that result in two ''High'' consequence scores, that a threshold of 150 passengers is appropriate. We also looked at the N–RAT vulnerability condition for a ''Catastrophic'' consequence score and determined that added measures were appropriate for vessels carrying 2,000 or more passengers. These additional security measure requirements for larger passenger vessels and the terminals that serve them are justified to offset their elevated risk from a transportation security incident.

Gross Tonnage Threshold Determination

The N–RAT was also limited in its sensitivity to identify the vessel gross tonnage that sufficiently pointed to a determination of the terms ''economic disruption in a particular area, transportation system disruption, or environmental damage'' which are required elements of the transportation security incident definition.

Small, dry-cargo vessels (gross tonnage less than 500) were identified by the N–RAT results as vessels of concern. These vessels, regulated under 46 CFR subchapter I and in the gross tonnage range of 15 to 500, are not required to comply with SOLAS and thus are exempt from ISPS Code requirements. We believe this creates a significant security vulnerability that must be considered and addressed at an appropriate level. To establish the appropriate threshold, we evaluated the risk for a transportation security incident posed by smaller vessels (gross tonnage <500) to determine where a reasonable threshold should be drawn.

The N–RAT results showed a significantly greater risk for vessels of gross tonnage above 100 being involved in a transportation security incident than for smaller vessels. Based on the N–RAT assessment, the smaller vessels (gross tonnage <100) are unlikely to be involved in a transportation security incident because of the limited consequences they are expected to produce due to their limited size and speed. A review of the domestic freight vessels that are documented with gross tonnage under 100 reveals that less than 2 percent of these vessels are capable of causing significant consequences to facilities or other vessels, and that some of these vessels are already regulated under this rule due to the nature of the cargo carried. However, because of their greater dimensions and the trades in which they operate, vessels with gross tonnage above the 100 threshold do present the potential of being involved in a transportation security incident. A limited analysis of potential collision effects leads us to the conclusion that these vessels may not be able to cause catastrophic personnel casualties or environmental damage. However, based on our knowledge of port operations, navigable waterways, and vessel design, construction, and operations, we believe that a significant risk of a transportation security incident (one ''Catastrophic'' or two or more ''High'' consequence ratings) exists for vessels with gross tonnage above 100. This is primarily driven by potential impact on the economy, national defense, or secondary national security threat from certain scenarios. Examples of these potential effects exist in Coast Guard accident reports where incidents documenting the blockage of channels in various rivers and ports occurred due to vessel casualties. These blockages resulted in substantial economic impacts as the mobility and commerce within the port was seriously affected.

As for the difference in the Convention Measurement tonnage and the Regulatory Measurement tonnage within this analysis, we used the Regulatory Measurement where

assigned. There was also an impelling reason to use the Regulatory Measurement for implementing maritime security measures because there is a significant body of existing regulations that are constructed around this measurement system. Therefore, for application, the Regulatory Measurement tonnage (gross register tons) was primarily used unless a certain maritime security requirement was solely meant to reduce risk on vessels that engage in international voyages.

Based on the above, we believe that 100 gross register tons (and not 15 gross register tons) is a reasonable lower end for applicability for dry-cargo vessels. We are also regulating those vessels in the range of 100–500 gross register tons that are not covered by SOLAS and are therefore exempt from ISPS Code requirements.

AIS Threshold Determination

The applicability thresholds used for the implementation of AIS on certain vessels is a separate issue, for which we did not use the N–RAT. The MTSA clearly mandates AIS applicability in 46 U.S.C. 70114 and the installation dates are included in MTSA sec. 102(e). The thresholds for vessels: a self-propelled commercial vessel of at least 65 feet in overall length; or a passenger vessel, carrying more than a number of passengers for hire determined by the Secretary; or a towing vessel of more than 26 feet in overall length and 600 horsepower; as well as any other vessel for which the Secretary decides that an AIS is necessary for the safe navigation of the vessel, are related to both safety and security. Thus the thresholds are somewhat lower than those discussed above for vessels at a high risk of a transportation security incident.

Applicability Evaluation for Facilities

The N–RAT results indicate that the following facilities are at a high risk of a transportation security incident and therefore are required to meet specific security measures as laid out in part 105 of subchapter H:

- Facilities that handle cargo subject to 33 CFR parts 126, 127, or 154;
- Facilities that receive vessels certified to carry more than 150 passengers;
- Facilities that receive commercial vessels greater than 100 gross register tons on international voyages, including vessels solely navigating the Great Lakes; and
- Fleeting facilities/areas for barges carrying cargoes in bulk, regulated by 46 CFR subchapter D or O or carrying certain dangerous cargoes.

The N–RAT results indicate that the following facility types are at a lower risk of a transportation security incident and are therefore subject to parts 101 through 103 of subchapter H:

- Facilities adjacent to the navigable water that handle/store cargo that is hazardous or a pollutant;
- Facilities that receive only domestic bulk non-hazardous cargo;
- Facilities that service a vessel that carries fewer than 150 passengers;
- Fleeting facilities/areas that service barges subject only to 46 CFR subchapter I or barges that are certified to be gas-free that are certificated under subchapter D and O; and
- Oil and natural gas production, exploration, or development facilities regulated by 33 CFR part 154 that engage solely in the exploration, development, or production of oil and natural gas; and do not meet or exceed the operating conditions in § 106.105 of the Outer Continental Shelf (OCS) Facilities rulemaking published elsewhere in today's **Federal Register**;
- Facilities supporting the production, exploration, or development of oil and natural gas regulated by 33 CFR parts 126 or 154 that engage solely in the support of exploration, development, or production of oil and natural gas; and transport or store quantities of hazardous materials that do not meet and exceed those specified in 49 CFR 172.800(b)(1)–(6); or stores less than 42,000 gallons of cargo regulated by 33 CFR part 154;
- Mobile facilities regulated by 33 CFR part 154;
- Isolated facilities that receive materials regulated by 33 CFR parts 126 or 154 by vessels due to the lack of road access to the facilities and do not distribute the material through secondary marine transfers; and
- Other facilities not specifically addressed in part 105.

As mentioned in the above *Applicability for Vessels* discussion, the 150-passenger threshold will be reviewed for the maritime community when other agencies of DHS (*e.g.*, TSA) have completed their assessment of the national transportation system as a whole and has provided guidance on intermodal thresholds that may refine the ''significant loss of life'' determination for the implementation of the MTSA. We are concerned about the gap that may be created by requiring only facilities that service larger passenger vessels to have plans, when some other facilities that service only smaller vessels may, at any point in time, have an aggregation of more than 150 passengers on a facility or pier (such as commuters at small passenger vessel terminals). In addition, small passenger vessels that are not required by subchapter H to have vessel security plans may share the same facility as a larger passenger vessel for which a plan is required. This distinction may put the facility at a higher risk from the small passenger vessel and therefore is a potential ''weak link'' in the security system. Even though the Vessel Security interim rule found elsewhere in today's **Federal Register** does not directly regulate these types of small passenger vessels, the facility security plan must nevertheless address the risks presented by accommodating multiple vessel types, even if some of those vessels may not have individual security plans. Additionally, the AMS assessment may indicate that the COTP should impose security requirements on small passenger vessels through the use of orders or security zones to complement those measures being implemented by the facility. The AMS Plan will reflect what additional necessary measures may be imposed by the COTP on vessels and facilities not subject to parts 104 to 106 of subchapter H, and other activities within the port area, at the three Maritime Security (MARSEC) Levels.

It is important to note the N–RAT focused on the potential for certain vessels and facilities to be involved in a marine-related incident, and its results reflect that relative risk. The Coast Guard took this approach because of our longstanding familiarity with vessel and waterfront facilities, because it was a logical follow-on to the PS–RAT efforts of the COTPs, and because it allowed us to meet the initial mandates of the MTSA to promulgate these interim rules as soon as practicable. However, the MTSA is broader and permits direct regulation of any vessel and facility that may be involved in a transportation security incident, as that term is broadly defined. This could include those facilities and infrastructure not traditionally regulated by the Coast Guard, such as facilities that do not have accommodations for vessels but are nonetheless on or adjacent to waters subject to the jurisdiction of the U.S. The Coast Guard is currently working with other agencies of DHS (*e.g.*, TSA) and other federal agencies to assess the security requirements of these other vessels and facilities located on or adjacent to waters subject to the jurisdiction of the U.S. Therefore, the interim rules published today, especially the applicability sections of parts 104, 105, and 106, do not exhaust the types of vessels and facilities that may be regulated under the MTSA. We

may be involved in follow-on regulations to address these adjacent facilities in the future. In the interim, the AMS Plan will address these types of facilities and COTPs may require specific facilities storing dangerous or pollutant cargoes to add security measures appropriate to their operations and the MARSEC Level.

Applicability Evaluation for Outer Continental Shelf (OCS) Facilities

The N–RAT results indicate that the following OCS facilities are at a high risk of a transportation security incident and are therefore subject to part 106 of subchapter H:

• OCS facilities that produce 100 thousand barrels of oil or 200 million cubic feet of natural gas per day or regularly host more than 150 personnel on a daily basis (may exceed this number for periods of time not in excess of 90 days).

The N–RAT results indicate that the following OCS facilities are at a lower risk of a transportation security incident and are therefore subject to parts 101 through 103 of subchapter H:

• Unmanned platforms and lower production level platforms.

The N–RAT was also not able to provide sensitivity to the OCS facility size or production level that sufficiently pointed to a determination of the terms ''significant loss of life, economic disruption in a particular area, transportation system disruption, or environmental damage'' which are required elements of the transportation security incident definition. To develop this threshold, we worked in conjunction with the Minerals Management Service (MMS) to compare OCS facility production rates and operations throughout the industry. The 150-person threshold was also used to remain consistent with the vessel and facility thresholds. Those OCS facilities that do not fall within the rather narrow parameters of this threshold should consider security measures. We will continue to work with the MMS to validate this threshold as the results of the other agencies of DHS (*e.g.*, TSA) intermodal comparisons are completed. In the interim, the AMS Plan will address these types of OCS facilities and COTPs may require specific offshore facilities with unique or higher-risk operations to add security measures appropriate to their operations and the MARSEC Level.

Assessment Limitations

While the N–RAT is a very useful tool and offers an excellent way to collect and organize expert judgments about security risk issues, it is not perfect. One limitation is that the quality of the results depends directly on the knowledge and expertise of the expert assessors. Inexperienced personnel with limited perspectives will produce results with limited value. It is essential that seasoned evaluators with a broad experience base be used to ensure full consideration of multiple aspects of the issues. The Coast Guard assessment teams included mid-career and senior professionals with experience in ship design, construction and operation, hazardous materials and facility inspections as well as waterways management and port operations.

Another limitation of the N–RAT is that it looks at risk in a relative way. The N–RAT is considered a ''relative risk-indexing'' tool, meaning that it is only useful in comparing scenarios evaluated with the tool. The N–RAT does not provide a measure of absolute risk that can be compared to other situations not evaluated in this tool.

A third limitation is that the N–RAT is unable to measure all of the benefits attributable to intelligence or information gathering initiatives, which are commonly called ''Maritime Domain Awareness (MDA) initiatives.'' Measures such as AIS increase awareness and may provide earlier detection or even serve as a deterrent to a transportation security incident, but the assessment tool is unable to capture this effect based on the factors evaluated and the sensitivity of the rating scales. Increased awareness by itself does not decrease the threat or vulnerability at a measurable level subject to the sensitivities of the model. Therefore, the expert panel was unable to account for all of the benefits we believe should be derived from specific MDA initiatives.

Since the N–RAT results highlight the worst-credible case scenarios, a fourth limitation is that the listed results are not sensitive to all scenarios, such as a high profile historically-based incident. We know that small boats loaded with explosives were used as weapons to attack the USS COLE and the tank ship LIMBURG. We cannot discount the possibility of this type of incident in the U.S. or against U.S. vessels outside of the U.S. It is our belief that the best means of deterring such an incident, to the maximum extent practical, is to require certain facilities used in maritime commerce to conduct an assessment of their vulnerability to being used as a staging area for terrorist activities. These facilities would then construct a detailed plan to control access to the facility, permitting the movement or entrance of only authorized persons and cargoes onto and through the facility. This plan will enable the facility to have increased vigilance, awareness and control over those vessels and persons that are served by the facility. We also believe the possibility of a ''COLE-like'' incident can be reduced by requiring vessels that would likely be the target of such an attack to likewise assess their vulnerability to such an incident and similarly develop a security plan. This plan would include procedures for security monitoring and increased security vigilance, including security with respect to vessel-to-vessel activities. In addition, vessel and facility plans should include how they would address recreational vessels approaching that they reasonably suspect may pose a threat to them. These facility and vessel security requirements will be complemented by the development of an AMS Plan involving port stakeholders. This plan will address the security measures to be implemented for all port activities at different security levels. The control and movement of vessels, such as small vessels that could be used as a weapon, will be considered and addressed in the AMS Plan. These controls would include such measures as the possible restriction of all small vessel movements, the implementation and through enforcement of security zones and the coordination of all security patrols in the port.

Lastly, the threat, vulnerability, and consequence scores each have discrete values associated with them. Because there were only 5 scores (1 through 5) for each input variable, the level of resolution (or ''granularity'') of the risk calculations was limited. This was especially true when assessing the impact of risk reduction initiatives or actions. In many cases, a new initiative or action may have a distinct improvement, but not enough to change a score assignment (*e.g.*, changing the accessibility score from a score of 4 to a score of 3).

Discussion of Comments to Maritime Security Public Meetings

As mentioned, the notice of meeting published on December 30, 2002, requested comments on requirements that align domestic maritime security requirements with the ISPS Code and recent SOLAS amendments, to comply with section 102 (Port Security) of the MTSA, 2002.

General Comments for all public meetings. Several comments and issues were discussed at all seven public meetings that reflect general, overarching concerns of the maritime community for implementing National Maritime Security requirements. These

common issues are included in the following discussion.

Commenters voiced the desire to ensure we align the maritime security requirements with other agencies and States that have already tightened security. We have been working with all federal agencies that have security or response related functions and in multiple venues to facilitate the various security initiatives related to homeland security. The joint team that worked on the interim rules found in today's **Federal Register** is just one example of this type of coordination. Other joint efforts include the ongoing work to implement the Presidential Decision Directive PDD–63 on critical infrastructure protection and The National Strategy for The Physical Protection of Critical Infrastructures and Key Assets. The Department of Homeland Security (*e.g.*, Information Analysis and Infrastructure Protection) is leading this critical infrastructure program. We have also worked with State officials that have implemented maritime security requirements and have broadened this discussion to include all State level homeland security representatives to raise the awareness of maritime security and the importance of the marine elements of the national transportation system throughout our nation. Further interagency coordination on maritime security issues will also be established when the National Maritime Transportation Advisory Committee is in place. We anticipate that this Committee will assist in ensuring the continued coordination of all involved in maritime security on a national scope.

On a related issue, commenters requested to know how other cargo-handling requirements or proposals by other agencies would affect the maritime industry. Cargo security measures are addressed in 46 U.S.C. 70116, Secure Systems of Transportation, and Section 111, Performance Standards, of the MTSA. Section 111 has an implementation date of January 1, 2004. Other agencies of DHS (*e.g.*, TSA and the Bureau of Customs and Border Protection) are responsible for these sections of the MTSA and will work with the Coast Guard in implementing them. The other agencies of DHS (*e.g.*, TSA and the Bureau of Customs and Border Protection) are actively working toward developing the cargo security measures called for in these sections. They have assembled an interagency team to evaluate the proposals for supply chain security submitted for Operation Safe Commerce (OSC) and hope to have cooperative agreements signed by summer 2003 to analyze supply chain security and to prototype procedural and technological solutions to supply chain security.

The information gleaned from the OSC effort, as well as information gleaned from other cargo security and productivity initiatives and from experience in other cargo security programs, will form the foundation of forthcoming cargo security regulations. We recognize that, although cargo security will be a component in vessel and facility security plans, facilities and vessels will not want to create and install cargo security technologies in advance of these cargo security requirements, out of a concern that the technologies they create or install will not meet the requirements. Guidelines will be developed and provided for acceptable cargo security measures that can be used until the cargo security requirements are promulgated. These guidelines will address procedural measures.

Again, related to interagency coordination, some commenters stressed the need to harmonize any requirements with the Research and Special Program Administration (RSPA). RSPA published a final rule amending 49 CFR part 172 in the **Federal Register** on Tuesday, March 25, 2003, (68 FR 14510). The final rule established new requirements to enhance the security of hazardous materials transported in commerce. Like the maritime security interim rules discussed in this rulemaking, shippers and carriers of certain highly hazardous materials must develop and implement security plans that address three issues: personnel security; unauthorized access; and enroute security. In addition, all shippers and carriers of hazardous materials must assure that their employee training includes security awareness training and, for shippers or carriers of certain highly hazardous materials, in depth employee training for each hazardous material employee. While RSPA's final rule allows training that is conducted and security plans that are prepared to meet regulations, standards, protocols, or guidelines issued by other entities, the final rule comes into effect before the interim rules for maritime security. Shippers and carriers must be in compliance with the RSPA final rule by September 26, 2003. Shippers and carriers that are required to meet the interim rules for maritime security discussed in this rulemaking will have to submit security plans no later than December 2003. As a result, shippers and carriers that must comply with both the RSPA requirements and the maritime security requirements will need to ensure the September date is met. In order to minimize duplicative efforts, we recommend those shippers and carriers develop and implement the training and security plan components of the maritime security interim rules that also meet the standards of the revised 49 CFR 172.800 by September 26, 2003 in order to comply with the RSPA requirements. Because the RSPA regulations do not require plan review, by completing and implementing those portions of the maritime security interim rules that fulfill the RSPA regulations, a shipper or carrier will comply with the RSPA regulations. In other words, if a Vessel or Facility Security Plan is completed and implemented but not yet approved by the Coast Guard, if it contains the elements mandated by the RSPA regulations the shipper or carrier will comply with RSPA. Once the Vessel or Facility Security Plan is approved, both requirements will be met.

Finally, the Environmental Protection Agency (EPA) also has existing regulations for non-transportation-related onshore facilities and certain offshore facilities to prevent the discharge of oil and to prepare plans for responding to discharges of oil or substantial threats of discharges of oil. The Coast Guard and the EPA will continue to explore the impacts of these maritime security interim rules on facilities under EPA jurisdiction and will clarify the impacts of the maritime security regulations, if any, before publishing a final rule. These maritime security interim rules are not intended to require the owner or operator of a facility under EPA jurisdiction to amend the Facility Response Plan (FRP) or Spill Prevention Control and Countermeasure (SPCC) Plan. We do not intend to require the National Schedule Coordination Committee to modify the existing schedule for exercise. Additionally, we do not intend to require the owner or operator of a facility under EPA jurisdiction to amend the facility's EPA-approved training program, exercises, or drills or record keeping of such training, exercises, or drills. The maritime security regulations for training, exercises, drills, and record keeping in these interim rules are strictly within the purview of the new legislative mandate for security and may be combined with existing training, exercises, or drills, where appropriate.

Commenters requested that we recognize industry-developed standards that achieve an equivalent level of security to the SOLAS and ISPS Code requirements. We have been working on

security-related issues and have discussed or required security measures on vessels and facilities (including offshore facilities) since well before the development of the ISPS Code or the MTSA. In this work, we have reviewed and assisted in the development of many industry standards for security that implement high security standards and are effective in preventing security-related incidents. In addition, we have worked with many States that have successfully developed crime prevention standards for the maritime community that are substantial and effective. Recognizing the substantial body of work in various maritime industry sectors on security, we anticipate recognized industry-developed standards to provide the backbone for implementing many of the security measures contained in the maritime security interim rules found in today's **Federal Register**. Key to this recognition will be a comprehensive review of the industry-developed standard to determine whether it is equivalent to the security requirements being met by those using the standards found in the maritime security interim rules in today's **Federal Register**. It is imperative that the industry-developed standards be deemed equivalent in order to ensure that those vessels and facilities that use the industry-developed standards and have a high likelihood of experiencing a transportation security incident have adequately reduced their risk to the benefit of the entire U.S. Marine Transportation System (MTS).

Commenters requested that the requirements be flexible enough to tailor measures to different industries and be performance based rather than prescriptive. Fundamental to the requirements for security has been the concept of a security assessment. This assessment is specifically linked to security plans and is focused on a vessel, facility, or port as a unique operation. Thus, the assessment results drive the security measures implemented to set or increase each security level and, thus, make each plan unique as well as performance-based. The enforcement of security measures is always difficult when dealing with a purely performance-based system, as opposed to a prescriptive one; however, in this case, it will be clear whether access control, for example, exists or does not. The requirements contained in the maritime security interim rules found in today's **Federal Register** include clear measures to conduct standard security assessments and draft standard security plans throughout the maritime community. This approach will result in security plans which incorporate specific measures, unique to the operation, but in overall alignment with the objectives of all plans, to detect and deter a transportation security incident.

Commenters requested that the requirements be consistent among ports. We recognized the need for industry to have requirements tailored to their specific and diverse operations yet be afforded the consistency of the larger port-wide security measures. This said, no port has the same critical operations or geographic constraints, which make mandating the same security measures ineffective. However, we believe the framework of assessments and plans as laid out in the maritime security interim rules found in today's **Federal Register**, provides the consistency between ports and will be effective. This approach should ensure industry concerns are addressed within each COTP's area of responsibility. Each AMS Plan will also be reviewed and approved at both the District and Area level to assess consistency across the maritime community and to emphasize coordination across all borders. Additionally, we have included some flexibility in the AMS Plan requirements so that some geographic areas can be treated as systems, such as the Western Rivers, the Great Lakes, or the OCS. This geographic coordination of security measures to encompass an entire system will promote effective as well as efficient maritime security for all.

Commenters raised concern on the restrictions to mariner shore leave, detention aboard their vessels, and service provider access to mariners, such as port chaplains, union representatives, etc. This is a very important issue and it is addressed in the Vessel and Facility Security interim rules found elsewhere in today's **Federal Register**. The interim rules encourage both the vessel and the facility operators to coordinate shore leave for mariners, as well as procedures for access through the facility by visitors, including port chaplains and union representatives.

Commenters raised concern over the high cost of requirements and disparity between federal funds for the maritime versus the aviation sectors. We understand that many believe the cost of security is overwhelming. The requirements in this set of interim rules focus on those on those vessels and facilities that are at a higher risk of having a transportation security incident. We have developed flexible measures to meet the security requirements. The disparity between funding available between transportation modes is outside the scope of this rulemaking. There are, however, programs, such as the Maritime Security Grant Program, which is funded through the Transportation Security Administration and jointly administered by the Maritime Administration, Coast Guard and the Transportation Security Administration. This grant program can provide some funding for owners and operators regulated under subchapter H. An excellent reference for this program can be found at *https://www.portsecuritygrants.dot.tsa.net.*

Commenters voiced a desire to have the Transportation Security Card requirements promulgated quickly. As discussed under issue number 37 in the *Specific Comments on the 40 issues listed in the public notice* section below, there are many credentialing efforts in development. 46 U.S.C. 70105, Transportation Security Cards, addresses unescorted personnel access to secure areas of facilities and vessels. Other agencies of DHS (*e.g.*, TSA) are responsible for implementing this section of the MTSA. Other agencies of DHS (*e.g.*, TSA) are developing the Transportation Worker Identification Credential (TWIC) that will be a transportation system-wide common credential, used across all modes, for all U.S. transportation workers requiring unescorted physical and logical access to secure areas of our transportation system. The goal is to have one standardized credential that is universally recognized and accepted across our transportation system and can be used locally within the current facility infrastructure. We recognize that personnel access control will be a component in vessel and facility security plans, and understanding that facilities and vessels will not want to create and install personnel access control systems in advance of the TWIC infrastructure. In order to address these competing concerns, guidelines will be developed jointly by other agencies of DHS (*e.g.*, TSA) and the modal administrations, and will provide for acceptable personnel access control measures that can be used until the TWIC is available. These guidelines will address procedural measures.

Commenters requested that we provide guidelines on training requirements for vessel and facility security. The ISPS Code specifies the designation of a Company Security Officer, Ship Security Officer and a Port Facility Security Officer and details their required competencies, duties, and responsibilities. To supplement these

requirements, the IMO is developing model courses that identify the key competencies for each of the three security officer positions. The U.S. and India have been asked by the IMO to develop these model courses by September 2003.

In addition to the ongoing international training initiatives, section 109 of the MTSA requires the Secretary of Transportation to develop standards and curricula to allow for the education, training, and certification of maritime security personnel. This task has been delegated to MARAD, which has charged a group of experts at the U.S. Merchant Marine Academy (USMMA) with developing the training requirements for the three security officer positions as well as the requirements for any other personnel with security duties. The USMMA working group has developed a base-level curriculum for maritime security education. This curriculum was refined through public outreach that included an international conference hosted by MARAD at the USMMA on March 20, 2003.

The ''Conference on Maritime Security Standards and Curricula'' drew 136 delegates from the U.S. and numerous other countries. The meeting focused on the framework for seven model courses that had been provided to attendees prior to the conference. The seven model course frameworks discussed were:

1. ''Vessel Security Officer;''
2. ''Company Security Officer;''
3. ''Facility Security Officer;''
4. ''Maritime Security for Vessel Personnel with Specific Security Duties;''
5. ''Maritime Security for Facility Personnel with Specific Security Duties;''
6. ''Maritime Security for Military, Security and Law Enforcement Personnel;'' and
7. ''Maritime Security Awareness.''

The discussions also included issues related to certification of personnel and quality control of training courses. A panel consisting of the USMMA working group members and representatives from the Coast Guard, TSA and MARAD also responded to questions and comments from participants as part of the conference forum.

Ongoing interagency collaboration and efforts to harmonize international and U.S. requirements have led to the expansion of this project to include the development of three model maritime security courses for the IMO. In cooperation with the government of India, the working group prepared and submitted draft model courses for the Ship Security Officer, the Company Security Officer, and the Port Facility Security Officer to the IMO by May 30, 2003. Following review by an IMO validation panel, the finalized courses will be forwarded to the IMO not later than September 8, 2003.

Therefore, the requirements in the vessel security and facility security interim rules found elsewhere in today's **Federal Register** require the Vessel Security Officer, Company Security Officer and Facility Security Officer positions to have designated personnel and company-certified qualifications until other training provisions are complete. For company-certified qualifications, we anticipate that owners and operators will use the model courses as guidance. Further work on training requirements and implementation of the security measures may indicate a need to require formal training for these positions, which could be promulgated under a separate rulemaking.

Commenters requested that the process used to determine the applicability of security requirements and their value be explained. We have discussed the initial assessment and subsequent application of these interim rules in the *Applicability of National Maritime Security Initiatives* discussion above. Additionally we have discussed the value of implementing security measures throughout the maritime community in the *Benefit Assessment* section of this rule.

Some commenters were concerned about the idea of applying international standards to domestic trade. In the public notice of meeting, we included an appendix that had the ISPS Code and the new security-related SOLAS amendments. We took this approach to provide the public with an opportunity to comment on a body of work that substantially represented the international security requirements and current best practices for maritime security. As stated previously, we had been working on security-related issues and discussed or required security measures on vessels and facilities since well before the development of the ISPS Code or the MTSA. We took these requirements and discussions further by proposing comprehensive measures for security in our submission to the MSC76 IMO meeting in May 2002. These proposals were developed with respect to security as a system, because fundamental security must be universal—terrorists attack foreign and domestic targets without bias. The flexibility to tailor security plans and measures based on a security assessment is a key to ensuring that a vessel, on either a domestic or non-domestic route, has operational security sufficient to deter, to the maximum extent practical, a transportation security incident. The fact that domestic transportation links are as viable as international avenues for a terrorist attack makes this systems approach even more important, *i.e.*, foreign and domestic vessels must have security measures in place on the same timeframe, making it more difficult to transfer the threat of a transportation security incident to a ''softer'' target. Finally, the application of ISPS, part B, to all vessels ensures a consistency of security measures implemented while in U.S. ports.

Specific Comments on the 40 Issues Listed in the Public Notice

In the notice, we specifically requested response to 40 issues, helping to shape the regulations published in all six interim rules. A discussion of the responses to each of the issues raised in the notice follows.

1. *Obligations of Contracting Government with Respect to Security.* The SOLAS amendments (Regulation 3) and ISPS Code (part A, section 4, and part B, paragraph 4) lay out a series of requirements for Contracting Governments and Administrations to mandate security levels that are appropriate for their vessels and ports. In the notice, we explained our intention to implement these requirements in coordination with the Homeland Security Advisory System (HSAS) and asked for comments on how to relay information to the maritime community on changes in security levels, as well as methods to provide the public a forum to report suspicious acts.

Many commenters viewed as imperative that the threat and security level information be provided quickly and by all means available, including secure Web sites or e-mail. They also felt that the information should be provided to all components of the maritime community, including recreational boaters and shore-side personnel, should be formalized, and should be provided proactively. In this interim rule, the process for this communication is formalized through the AMS Plan, which will include all forms of communication available to the COTP in coordination with the private sector, State, local, and Federal agencies. Therefore, a standard communication method will be established across the nation, complemented with regional methods to ensure wide dissemination of threat information and security requirements.

As discussed in the Notice for Meeting, the Coast Pilot and Broadcast Notice to mariners will remain key communication tools for vessels underway or coming to the U.S. from foreign ports.

Other commenters suggested that the MARSEC Level should be directly linked to the HSAS at all levels. This contrasts with the comments of many others who voiced a concern about changing levels due to the HSAS system, based on threat information not specifically related to the maritime community nor a specific region. Therefore, they suggested adopting a separate security level mechanism or incorporating some flexibility into the alignment of HSAS to the MARSEC Level. We stated in our notice of meeting that we were considering a link with the HSAS levels and were implementing the MARSEC Level system to ensure both flexibility for the maritime community, as well as to align with the 3-level international security level system. This remains our intent and we have coordinated these alignments with DHS. The regulations lay out further discussion of the MARSEC Levels and their alignment with HSAS Threat Conditions (*see* Table 101.205).

Some commenters stressed that coordination with other agencies was needed, and that two-way communications was important to the security of the waterfront and its operations, as is the ability to report incidents that are out of the ordinary. Concern was also noted by some that the communications procedures should directly inform the Facility Security Officers, the Company Security Officers, and the Vessel Security Officers while underway, in lay up, or after hours, since toll-free numbers do not always work from overseas locations or are sometimes reported as busy. We have included other means for communication at the local and national levels in this interim rule to provide alternative means for providing information on suspicious activity. We are working to develop advanced information technologies to interconnect agencies, organizations, vessels, and personnel. The advanced information technologies will facilitate the rapid transmission of critical safety and security information both vertically and horizontally. Additionally, we expect to build a strong communication process with Company Security Officers, Vessel Security Officers, and Facility Security Officers at both the national and area levels once these Officers are designated and the owner or operator provides their contact information to us.

2. *Procedures for Authorizing a Recognized Security Organization (RSO).* The ISPS Code (part A, section 4, and part B, paragraph 4) allows Contracting Governments to delegate certain security related duties to a RSO. In order to ensure proper initial implementation of the MTSA and SOLAS, particularly with the accelerated implementation timelines, the Coast Guard discussed in the Notice of Meeting its intent not to delegate authority to an RSO and requested comments on RSO authorities, qualifications, and competencies (other than those listed in the ISPS Code, part B, paragraph 4.5).

Some comments indicated that class societies, while possibly suitable for RSO delegation, should not be considered because of the aggressive timeline to review assessments and plans. Similarly, others indicated their strong support for the Coast Guard to retain all approval authorities, citing that delegation would defeat the purpose and intent of the MTSA. In contrast, some commenters disagreed, stating that the Coast Guard did not have adequate resources. They requested that the Coast Guard delegate its authority to an RSO, establish a timeline for when we would begin consideration of RSOs, and provide instructions on how RSOs should request consideration. We have retained in this regulation the intent to keep the approval of assessments, plans, and other security measures as a Coast Guard function. While it is understandable that organizations within the maritime community would seek to have their security expertise recognized, the Coast Guard believes it is imperative to maritime and homeland security to ensure consistent application of the requirements found in the interim rules and will conduct the required reviews and approvals without delegation, at this time. A timeline and further delegation discussions may be provided, once a stable, nationwide foundation for maritime security has been established.

As for the adequacy of the list of RSO competencies provided in the ISPS Code, part B, some commenters considered it an adequate list, while others indicated that there should be additional qualifications, such as a familiarity with national and local security plans. We believe this list encompasses the essential qualifications and competencies of organizations that wish to assist the maritime industry in the development of their security assessments and plans. The comment on knowledge of local security plans has merit and should be considered in addition to the ISPS Code, part B, competencies by those hiring security personnel.

3. *Consideration of Other Organizations Competent in Maritime Security.* In our Notice of Meeting, we discussed the potential need within the maritime community for assistance with the development of security assessments and plans from organizations advertising maritime security competency. We asked for comments on whether we should establish a standard for these organizations or companies and vet them against a benchmark, such as the one in the ISPS Code, part B, paragraph 4.5.

Several commenters requested that we develop standards or at least an outline of what they should expect from a company that professes maritime security competency and many also stated that the ISPS Code, part B, list was sufficient. Some commenters went further to suggest that we put this standard into guidance rather than regulations or leave it to the trade organizations to develop, because of concern over rigid requirements favoring larger companies and, therefore, limiting the flexibility of owners and operators. Many commenters did not believe the Coast Guard needed to vet these maritime security organizations, however, many suggested that examples of acceptable plans would be helpful to smaller operators. In contrast, other commenters stated that a list of organizations which meet industry or trade organization standards should be provided, and some went further to recommend the Coast Guard certify organizations, thus creating the basis for a new industry. Finally, some commenters requested that we develop and mandate industry standards for waterborne security and armed guards.

In these interim rules, we reference ISPS Code, part B, paragraph 4.5, as a list of competencies all owners and operators should use to guide their decision on hiring a company to assist with meeting the regulations. We may provide further guidance on competencies for maritime security organizations, as necessary, but do not intend to list organizations, provide standards within the regulations, or certify organizations. We consider standards and requirements for waterborne security and armed guards a subset of the above discussion. While these security measures may be appropriate for some vessels or facilities at a particular MARSEC Level, they are not necessary for all situations. Thus,

we have indicated, in only the vessel and facility security interim rules found elsewhere in today's **Federal Register**, that they are among the additional measures that owners or operators may consider implementing, specifically at heightened security levels, and COTPs may impose, when deemed necessary to ensure maritime security in certain situations. The standards for private armed security guards are a matter of State and local law, as are the legal parameters for use of force. There are also differing standards that apply to armed private waterborne security in some States and local jurisdictions. Even though the interim rules do not address standards for private security guards in subchapter H, considering this a matter of State and local law and private contract between the owners and operators of vessels and facilities and the security company, we intend to work with State homeland security representatives to encourage the review of all standards related to armed personnel and the services that they provide to the maritime community.

4. *Procedures for Accepting Alternatives and Equivalencies.* The Notice of Meeting discussed that the SOLAS amendments to Chapter XI–2, Regulation 11 and 12 along with ISPS Code, part B, paragraphs 4.26 and 4.27, allow us to permit alternatives and equivalencies to the security requirements for U.S. flag vessels if they are at least as effective as the mandates and are reported to IMO. This provision is relevant to those vessels operating on international voyages and certificated by the U.S. The issue of industry standards was raised to cover domestic requirements, and is separate from the alternative and equivalencies provisions in SOLAS. The Coast Guard indicated its intent in the Notice of Meeting to make alternative and equivalency determinations at the national level and requested comment on the provisions of alternatives and equivalencies, as well as the process to submit a proposal to us for consideration (suggesting a process similar to 46 CFR 30.15 or 70.15).

Many commenters suggested that alternatives and equivalency determinations were needed to ensure compliance, yet allow for the unique international operations within some regions or in specific industries. Many commenters also supported the idea of a ''master plan'' for their vessel fleet or facilities that would eliminate some work and still effectively capture the security measures for the individual vessels or facilities covered. Some also asked if an appeals process would be included so a higher authority could reconsider equivalency and alternative determinations. A few commenters requested that this provision be delegated to the local level rather than be done at Coast Guard Headquarters to account for unique regional operations. Many commenters also stated that the submission process, as it exists for safety (46 CFR 70.15) or subchapter W, is adequate as long as it is timely.

We have included the alternatives and equivalency provisions in this interim rule to provide vessel and facility owners and operators the flexibility to request them. However, they will only be approved if they are determined to be equivalent to the security requirements in subchapter H and 33 CFR parts 120 and 128, if applicable. The provisions of submission and the appeal process are also included in the regulations presented in this interim rule. Because the equivalency and alternative determinations are obligations under SOLAS and the ISPS Code, the Coast Guard is placing the decision to accept equivalents and alternatives at the Commandant level, at this time. This will ensure consistency and retain control over the U.S. flag administration obligation. As always, State, local and regional expertise will be used when reviewing alternatives and equivalencies, as appropriate for the proposals.

5. *Procedures for Accepting Industry Standards.* In addition to the equivalencies and alternative provisions discussed above, we discussed in the Notice of Meeting that, for those vessels that are currently not required to meet SOLAS, industry standards could be accepted as an equivalent or alternative. We sought comment on the concept of accepting industry standards and asked whether an independent audit could also be used in conjunction with this system. We also requested comment on the intent to review these standards at the national level and provide a submission process similar to that found at 46 CFR 50.20–30.

An overwhelming number of commenters strongly supported this proposal and voiced endorsements for various industry standards, both for vessels and facilities, which are either published and in use or currently under development. Some commenters recommended that industry standards for assessments already exist that could be determined equivalent to the assessment requirements proposed in the Notice of Meeting and should be considered. Many commenters indicated they intend to submit their standards for approval and will also seek approval for plans or assessments already conducted to meet State requirements. Several commenters also stated that an independent audit should not be required if the vessel is already inspected by the Coast Guard. Many commenters also requested that the industry standards or alternatives be approved at the local or regional level rather than at the Commandant level. Additionally, some commenters expressed the desire to have the industry standards reflect lower security measures requirements that would not be equivalent to those discussed in the Notice of Meeting.

We have considered the acceptance of industry standards to be a key element of implementing the requirements of the MTSA. The public meeting response to our questions on this issue indicates that the industry is willing to tailor security standards to their industries' needs and work with us to implement them. The issue of equivalency is fundamental to implementing an effective system of maritime security. Therefore, equivalency is a requirement for the acceptance of industry standards in the regulations presented in this interim rule. When a security assessment is conducted on a vessel or facility operation, the resultant security measures that can logically mitigate and meet the security risks are tailored to the situation. Thus, an industry standard for the small passenger industry will be different from the industry standard for chemical ships, simply based on the difference in their respective vulnerabilities and the associated consequence of a transportation security incident. To accommodate this wide diversity of industry standards and substantiate their equivalency to the requirements in subchapter H, the review and approval of industry standards will remain at the Commandant level. However, we intend to coordinate review of industry proposals with the local and regional levels, if appropriate. In addition, standards already developed to meet State requirements or other industry concerns may be submitted for an equivalency review and subsequently approved under the requirements of this section, if found appropriate. In the requirements of this interim rule, we have titled this industry standard concept, ''Alternative Security Programs,'' because it is a broader term that implies a program or system that is more inclusive, *i.e.,* an industry association or a company could submit these requests for consideration.

6. *Declaration of Security (DoS).* The ISPS Code (part A, section 5) requires Contracting Governments to determine when a DoS is required for vessels and facilities conducting vessel-to-port or

vessel-to-vessel activities. A DoS is a document that establishes an agreement between a vessel and a facility, or between vessels, on their security arrangements to ensure their coordination and communication is clearly set out.

In the notice of meeting, we requested comments addressing recommendations for those operations or security levels when the DoS would be appropriate to facilitate coordination of security measures between a vessel and facility. As requested, we received comments addressing our question. Comments supported the intent of the requirements but expressed confusion at when it was needed. In particular, ferry operators questioned if they would be required to submit a DoS for every transit. Other commenters suggested that the DoS only be required at higher MARSEC Levels (2 and 3) for specific operations and are not appropriate for domestic vessels. Additionally, commenters suggested that transfers that are brief or involve barges should not have DoS requirements.

We believe a DoS is a valuable security communication tool for vessels, facilities and for COTPs. While a DoS is generally a MARSEC Levels 2 or 3 tool, there are certain operations that benefit from added coordination between the facility and the vessel. In the AMS requirements found elsewhere in today's **Federal Register**, each AMS Plan will be required to address DoS requirements for certain operations within the ports, especially related to MARSEC Levels 2 and 3. In addition, the AMS Plan will be required to include the procedures for what actions to take when vessels are at a higher MARSEC Level than the Port and request a DoS or other security measures in order to enter the Port. A DoS will not be required for all vessels and all facilities in all operations. In addition to the requirements found in the AMS Plan, both the Vessel Security and the Facility Security interim rules found elsewhere in today's **Federal Register** discuss when and for what operations a DoS will be required. We have determined that some operations always require a DoS and therefore vessels engaged in those operations may need to complete a DoS on a regular basis, due to their high-risk operations or locations. However, we believe a standing procedure or agreement can be used to meet this requirement. The COTP may determine, based on the localized repetitive nature of an operation, that a standing agreement which lays out the information in a DoS, can replace the daily use of the DoS.

We also requested comments in our public notice on how long a DoS should be kept on file (we suggested 2 years) and asked how the format of a DoS should be promulgated (guidance or regulation). In addition, the ISPS Code allows flag administrations to give guidance on when their ships should request a DoS during a port call or when interacting with other vessels. Many commenters suggested that a 2-year time frame for record retention was much too long. Many commenters also noted that they preferred guidance rather than regulation on the format for a DoS. Based on comments we received and to further align with the ISPS Code requirements, the Vessel Security requirements found elsewhere in today's **Federal Register** include requirements to keep DoS's on file for the vessel's last 10 port calls. The Facility Security requirements found elsewhere in today's **Federal Register** include requirements to keep DoS's on file for at least 90 days. As for DoS format, the interim rules mentioned above specify required elements for a DoS to ensure facility and vessel forms are acceptable for COTP reviews. For U.S. flag vessels, we intend to provide guidance to Company Security Officers on when to request a DoS based on vessel operations and world threat conditions.

7. *Security of Information Contained in Port, Vessel and Facility Security Assessments and Plans.* The ISPS Code, part A, sections 9 and 16, and the MTSA (46 U.S.C. section 70101(d)) require documents related to security, especially security assessments and plans, to be kept in a manner that is protected from unauthorized access or disclosure. In our notice of meeting, we asked for comments on whether a classification for sensitive security material would be useful in the implementation of National Maritime Security initiatives.

The majority of commenters supported a designation for all security-related materials to ensure this information is not available to the general public and some requested a higher security designation such as what the Defense Department is using. Some other commenters did not want a security-related designation because they wished to ensure the Freedom of Information Act remained primary to all information. Other commenters suggested that individuals should have clearances to see this material or that the Coast Guard be the only agency allowed to review the material. In contrast, some State and local government representatives stated their wish to have access to the material and wanted us to include provisions for this access. Additionally, some commenters stated that a federal preemption clause was needed for this designation to ensure that if material was protected from disclosure at the federal level, a loophole at the State or regional level did not compromise its security.

Security-related information has traditionally not been in the public forum since it inherently puts at risk the very system that is being protected. Understanding the imperative need to safeguard maritime security material to ensure its dissemination does not make the vessel, facility, or port vulnerable to a transportation security incident, we have included provisions in this interim rule noting this type of material is to be designated as SSI in accordance with 49 CFR part 1520. Information designated as SSI is generally exempt under FOIA, and we believe that State disclosure laws that conflict with 49 CFR part 1520 are preempted by that regulation.

We did not believe that a security designation above SSI was needed for this material however, we did include provisions in this interim rule for a COTP to designate a higher level of security if there are provisions in the AMS Plan that indicate a higher level is appropriate. Access to the AMS Plan will be limited to those on the Area Maritime Security (AMS) Committee that have agreed to protect the material in a manner appropriate to its security sensitivity and have a need to know the material. Guidance on SSI and its use will be issued to assist AMS Committee members, consistent with 49 CFR part 1520. For material that is designated at a level higher than SSI, the COTP will screen AMS Committee members for appropriate clearances and take precautions appropriate to the material's sensitivity. Individuals and Federal agencies outside those with transportation oversight authority will not be allowed to view plans or assessments of vessels and facilities unless circumstances provide a need to view it. As stated in the Vessel Security interim rule found elsewhere in today's **Federal Register**, certain portions of each vessel security plan and assessment must be made accessible to authorities; however, those portions not required to be disclosed are protected with the SSI designation and need-to-know criteria. Owners and operators of vessels and facilities may also request a determination of a higher designation than SSI for their plans. The Commandant or the COTP, whoever is responsible for reviewing the security plan, will retain the designation authority. In all cases, the material, if retained by a Federal agency, must be

safeguarded to the appropriate designation.

Port Security Provisions

8. *Port Security Plans and Committees.* The requirements for port plans stem from the development of the new SOLAS amendments and the ISPS Code as well as the MTSA (46 U.S.C. sections 70103, 70104 and 70112). The definition of port facilities is broad and covers all aspects of the interface between a ship and a facility, including anchorages and other areas typically considered by the U.S. as public waterways, as well as other structures located under, in, on, or adjacent to U.S. navigable waters. Thus, in the public meeting notice, we discussed our intention to invoke the alternative provided in ISPS Code, part A, section 16.4, and combine facility plans with a port plan to encompass all waters subject to the jurisdiction of the U.S. The majority of the SOLAS amendments and ISPS Code requirements would be applied to U.S. facilities to ensure a seamless ship-to-facility security interface. However, the port security requirements will be the overarching instrument for implementing security communications and ensuring compliance. These port requirements will be developed through a port area plan (AMS Plan) and the port security committee (AMS Committee). In our notice, we asked for comments on who should be on the port committee and how we could ensure participation.

The comments we received on the committee's membership included a very broad range of suggestions. Some commenters suggested that only law enforcement entities and relevant government agencies participate. In contrast, many commenters requested that the committee's membership be truly inclusive—representing the smallest of recreational boater, to the largest facility; all types of shore-side service providers, labor representatives, and the myriad government agencies on all levels. Many comments stated the COTP should head the committee and a few comments stated that the COTP and the Port Authority should co-chair the committee.

Commenters suggested that COTPs could ensure participation in the committees by widely disseminating notices about committee meetings, have general public meetings, and hold working meetings to develop security plans. Some commenters recommended a small executive decision-making group with a large inclusive group for input. Some commenters felt there should be Port Security Committees in coastal ports only and voluntary participation with public meetings. Others added that Port Security Committees should be limited to port users and those with security expertise.

Because the AMS Plan is pivotal to the U.S. implementation of the international security requirements and is also key to our MTSA mandates, we have included provisions prescribing the development of AMS Plans, committees, and other port-level security measures in the ''Area Maritime Security'' (USCG–2003–14733) interim rule found elsewhere in today's **Federal Register**. This part establishes the AMS Committee, under the direction of the COTP, and indicates that membership to the committee is meant for those with certain skills, port operational knowledge, and should represent all aspects of the maritime community.

9. *Port Security Assessments Requirement.* In our notice, we also discussed Port Security Assessments (PSAs), as discussed in ISPS Code (part A, section 15, and part B paragraphs 15.1 through 15.16) as well as the MTSA (46 U.S.C. section 70102). Many assessments of this type have already been performed in ports and should be a good foundation for this requirement. Since the assessment will be integral in the development of the AMS Plan, we requested comments on if the committees would be able to provide the experience and expertise needed to do a security assessment and if assessments had already been conducted.

Several commenters stated that they felt that, with the assistance of the local Coast Guard, there would be adequate expertise within the port area to conduct a port wide assessment. In contrast a few commenters stated that the Coast Guard or a third party should conduct the assessments because the knowledge level within the port is not sufficient. Other commenters stated they did not think certain ports even needed to do an assessment because of the port's location. Several commenters also noted that the Coast Guard, both nationally and locally, has already conducted port security assessments.

Our COTPs have been working with Port Security Committees and Harbor Safety Committees successfully for some time. From this positive and participatory interaction, we strongly believe that the knowledge and expertise to successfully accomplish an AMS assessment currently resides in each port, notably within the membership of the current Port Security Committee. We believe that every port needs to conduct a port security assessment regardless of its location. It is important to remember that the current regulations and the international code are intended to strengthen marine elements of the national transportation system as well as lay out a baseline for each section of the system to attain. It is not our intent for ports that have already undertaken security assessments to have to reinvent the wheel, rather we encourage AMS Committees to take any assessment that has previously been conducted and use it as a reference document.

10. *Port Security Control of Vessels, Facilities, and Operations.* The requirements for control of vessels are outlined in the SOLAS amendments, Regulation XI–2/9, and the ISPS Code, part B, paragraphs 4.29 through 4.46. In the notice, we discussed our intention to implement control measures as detailed in the SOLAS amendments and ISPS Code requirements. However, these measures are not exhaustive and, where appropriate, COTPs will exercise authority under 50 U.S.C. 191, as implemented at 33 CFR part 6, 33 U.S.C. 1226, 33 CFR parts 160 and 165, and other measures consistent with international law, to ensure maritime security. In addition, we outlined our intent to ask the Port Security Committee (AMS Committee) to review areas within the port, such as fleeting areas, regulated navigation areas, anchorages, and areas near facilities, to assess whether these areas should have security zones or patrol requirements established at certain security levels. We asked for comments on the concept of a set of security zones or requirements set out in this pre-designated fashion with a specific procedure for triggering its implementation through a broadcast notice to mariners or security level communication to the maritime community. We asked if such a pre-designation would assist mariners and if other possible control measures would be recommended.

Many commenters supported the concept of a pre-designated system of waterway and facility restrictions and stated it would be advantageous for planning and preparation. They continued by suggesting that at times of heightened security, we should use existing maritime communications procedures as well as any other means to ensure vessels are advised to hold, or move to designated anchorage outside of port. Other commenters wanted to ensure that the barge and towing industry was consulted on any decisions to restrict the waterway. Some commenters stressed that communication methods of these pre-designations should include the entire maritime community such as recreational boaters and shore-side

interests. A few commenters also suggested that other control measures would include setting barriers and booms to deter seaward access.

As stated previously, the AMS Plan and the supporting committee is an integral part of the port security initiative. Measures that mitigate security risks to the port for each security level will be a main element of the AMS Plan as discussed in the ''Area Maritime Security'' (USCG–2003–14733) interim rule found elsewhere in today's **Federal Register**. We have outlined in these requirements a broad range of communication methods intended to include all sections of the port community and requirements for the AMS Committee to evaluate all options available to restrict or control activities in each port at each MARSEC Level. However, the COTP may independently exercise his or her broad statutory and regulatory authority to implement any measures deemed necessary to ensure maritime security.

11. *Port Security Training and Exercises.* In the notice, we explained that ISPS Code (part A, section 18 and part B, paragraphs 18.1 through 18.6) detail training, drills, and exercise requirements for port facilities. We requested comments on whether the maritime community would participate in port-level security exercises and what type of exercise is most desirable. We also asked for comments on existing port security training programs. Most commenters stated that while they would participate in port-level security exercises, a 12 to 18 months frequency was preferred. They also suggested that the COTP should vary drill schedules to reflect local conditions/threats. Commenters also suggested that only small portions of the Security Plan be exercised at a time and recommended that communications be tested more frequently than other sections of the plan. Some commenters stressed that combining security exercises with port pollution/disaster exercise is preferable, and that tabletop exercises or seminars should be considered in lieu of a full exercise. A few commenters stated that industry already trains security personnel and others commented that there should be no requirements for training. Other commenters recommended self-certified security training at the port-level and some believed Coast Guard auxiliaries need security training.

We believe that exercises and training are imperative to keeping security measures and plan requirements current. To ensure that the entire port community participates, we want to establish exercise programs that are inclusive and training that is exportable. In the ''Area Maritime Security'' (USCG–2003–14733) interim rule found elsewhere in today's **Federal Register**, requirements for exercises and drills are included. To add flexibility, provisions have been made to credit tabletop exercises as well as full deployment exercises. We anticipate that security will be a part of all port-level exercises such as pollution response or rescue drills. In addition, due to the nature of most ports, high-profile public events such as marine parades or festivals will likely mean an actual exercise of the ATMS plan that meets the intent of the exercise requirements. While these high-profile public events would require a marine event permit, we will not require that marine event permits be obtained for port-level training exercises. Training requirements for port personnel have not been included in the interim rule. It should be noted however, that the MARAD is developing education and training guidelines for maritime security professionals, some of which are intended for port security personnel. We intend to evaluate these guidelines when developed, and determine at that time whether further requirements are needed to ensure the competency of security personnel at the port-level.

Vessel Security Provisions

12. *Incorporation by Reference.* In the notice of public meeting, we discussed the concept of accepting national, State, and industry security standards to meet certain security requirement(s), such as a vessel security plan that incorporates the use of motion detection equipment that meets an accepted national standard. We requested that commenters share known national, State, or industry standards that could be used as an equivalent to our requirements in the marine environment and we asked them if they would use such standards, if available.

Many commenters supported our concept noting the flexibility of using existing standards, such as the ones prepared by the intrusion detection and surveillance industries. A few commenters stated that while they supported using existing standards, they were concerned about conflicts and incompatibility between current security equipment and equipment used for shipboard operations, while several others approved of the flexibility of using equivalent standards and stated that as long as we approved the use of the standard they would submit it as an equivalent standard to the requirements. Other commenters stated that they were against the use of industry standards and feared the Coast Guard would micro-manage vessel security operations.

Traditionally we incorporate by reference equipment standards we feel are appropriate to use in the maritime environment to enable vessel and facility owners and operators the flexibility to use standards they are familiar with as well as ones that are appropriate to meet the requirements. In the maritime security regulations for subchapter H found in today's **Federal Register**, there are no national, State, or industry equipment standards incorporated by reference because specific standards were not identified. However, a section in this interim rule (part 101) has been reserved for listing equipment standards for incorporation, if found appropriate in the future.

13. *Obligations of the Company.* In the public notice we discussed the concepts in SOLAS amendments (Regulation 4 and 5) and the ISPS Code (part A, section 6, and part B, paragraphs 6.1 through 6.8) that obligate the company for certain requirements. We requested comments on these obligations and whether they were sufficient to address maritime security. We also asked for comments on how to treat the special relationship between towing companies and barges.

Many commenters felt that this provision would clarify the companies' responsibility to the vessel and address any potential manning issues, while a few comments stated that the requirements for a company were ''excessive'' or that the ISPS Code did not address the requirements needed. Many comments stated that an independent audit of the Vessel Security Plan would be valuable in determining if the company's obligations and responsibilities were addressed and properly implemented.

In regards to the relationship between tows and barges, a large number of comments stated that the towing vessel should be responsible for the security of the barge while it is under their control. Several other comments recommended that security at fleeting areas be regulated.

We support holding the company to security-related obligations that will ensure companies and the vessels communicate on issues related to security, and help to ensure that any problems are resolved in an efficient manner. We believe proper implementation cannot work without the company and the vessel fulfilling their obligations as stated in the ISPS code. The company is essential to ensuring that the right people with the right skills are in the Company Security

Officer, and Vessel Security Officer positions. A company will not need to establish new internal guidance to satisfy the requirements if it already has guidance in another document that meets the requirements of the ISPS Code.

We reviewed the concept of an independent audit and have addressed it in the Vessel Security interim rule found in today's **Federal Register**. The unique relationship between a towing vessel and its tow has been considered and requirements for both are included in the vessel security requirements found elsewhere in today's **Federal Register**. Fleeting areas are also addressed in the Facility Security interim rule found in today's **Federal Register**.

14. *Vessel Security Requirements.* In the public notice we discussed that the SOLAS amendments (Regulation 4) and the ISPS Code, part A, section 7, require vessels act upon security levels set by Contracting Governments through appropriate protective measures by carrying out certain specified activities (ISPS Code, part A, section 7.2). We also asked whether the security measures should apply to other vessels that were not listed in the notice and whether these activities and protective measures adequately address the security of a vessel.

A very large number of commenters addressed the issue of which vessels the regulations should be applicable to. This issue has been discussed in the *General Information* section above, under the subheading *Applicability of National Maritime Security Initiatives.*

Several commenters noted possible alternative measures to be used in meeting the requirements, which are not specifically listed in the ISPS Code. The requirements in this general interim rule give provisions for both vessels and facilities to use Alternative Security Programs to meet the requirements. We will continue to provide feedback to industry, via Internet Web page and public notice, on all Alternative Security Programs that are approved by the Coast Guard (G–MP) as alternatives.

15. *Vessel Security Assessments (VSA) Requirement.* In the notice we discussed the requirements for a Vessel Security Assessment contained in the ISPS Code and the MTSA. We also discussed our desire to have a Vessel Security Assessment for each vessel that has to develop a security plan. In the notice of public meeting we asked for recommendations on how to conduct a Vessel Security Assessment for a vessel on a domestic voyage, and whether we should consider any existing alternatives to a Vessel Security Assessment.

Commenters recommended that we allow industry produced assessment tools, or require all assessments to be conducted by an objective third party, while others requested that we develop a template to be used in a self-assessment process. A few commenters claimed that a security assessment had already been done by the Coast Guard and requested that it be used in place of the required Vessel Security Assessment to avoid duplication of effort.

We strongly support the use of third-party assessments and audits to ensure quality as well as consistency. However, we are not including this provision as a mandatory requirement in the Vessel Security interim rule found elsewhere in today's **Federal Register** because the assessment is one part of the vessel security plan that we will be closely reviewing prior to the plan approval. We are assisting in the development of several assessment tools and templates. We recommend that vessel owners and operators seek tools from appropriate industry sectors that support or represent them to aid in completing the security assessments. To reduce the duplication of effort, we also strongly encourage vessel owners and operators to use any information that was previously collected during a security assessment as reference material for completion of the applicable areas of the new assessment.

16. *Vessel Security Plan Requirement.* In the public notice we discussed the development of a Vessel Security Plan that takes into consideration a Vessel Security Assessment, and makes provisions for actions at each of the three MARSEC Levels. In the notice we referenced the vessel security plan requirements in the ISPS Code and asked for suggestions about additional items or best practices to be addressed by the Vessel Security Plan. We also inquired whether an outline would aid you in developing a vessel security plan.

We did not receive comments suggesting additional items be addressed in the Vessel Security Plan, but we did receive multiple industry and organization submissions of their standards for consideration as a vessel security plan best practice. Many commenters stated that allowing an existing industry standard to be used would greatly streamline the review process. A number of others asked if we could provide a ''model plan'' for them to use. Many commenters also requested the acceptance of fleet-wide plans. Several owners also asked if a vessel and a facility, which have an exclusive docking arrangement (one in which no other vessels dock at the facility and the vessel only docks at the facility pier), could submit a uniform vessel/facility security plan.

The strong response and industry standards submitted as examples of best practices lead us to believe that the maritime industry is implementing security measures in many sectors. Many of these industry standards did have ''model plans'' incorporated into them as a development aid. As discussed previously, we will allow organizations to submit their security programs for consideration as an alternative to the requirements in the vessel security interim rule found elsewhere in today's **Federal Register**. The concept of accepting fleet-wide plans or plans that discuss exclusive docking arrangements or a single plan to cover both a terminal and a vessel, could also be considered Alternative Security Programs and be accepted if they meet the specified requirements.

17. *Submission of Vessel Security Plans for Approval.* The public notice discussed the need for a vessel to carry on board an approved Vessel Security Plan. In the notice of meeting, we requested suggestions on how vessel security plan approvals could be streamlined. We also asked if the format we proposed was appropriate or if an alternative process existed that we should consider.

Several commenters questioned the consistency of Vessel Security Plans approved by varying COTPs and asked what safeguards would be in place to ensure consistent enforcement for vessels that operate across COTP boundaries. In contrast, many other commenters felt the approval at the local COTP level would ease the process and allow for someone familiar with the vessel's operations to review the Vessel Security Plan. Finally, some commenters were also curious about the procedure for reviewing foreign vessel security plans.

To ensure a consistent approval process, we have decided that the Marine Safety Center (MSC) will review and approve all vessel security plans. This requirement is included in the Vessel Security interim rule, found in today's **Federal Register**. For those Vessel Security Plans with specific local or regional considerations, we will ensure that the local COTP or District personnel will be able to interject any industry or geographic specific information into the approval process.

It is not our intent to individually approve vessel security plans for foreign SOLAS vessels coming to the U.S. Consistent with our international

obligations under SOLAS and the ISPS Code, we will deem flag administration approval of a ship security plan to constitute approval under 46 U.S.C. 70103, provided the ship security plan complies with SOLAS and ISPS Code, part A, having fully applied the relevant provisions of ISPS Code, part B. Compliance by foreign SOLAS vessels will be addressed under the Port State Control program, with plans being reviewed by the vessel's flag administration as required by SOLAS and the ISPS Code.

However, in certain cases, foreign vessel operators may be required to submit the vessel security plan to the U.S. for approval, as required in the Vessel Security interim rule found elsewhere in today's **Federal Register**. These foreign vessels are an exception because they fall outside of the tonnage or route thresholds for SOLAS obligations, yet trade with us and, for security consistency, should meet the same security requirements as those vessels covered under domestic law.

18. *Existing Security Measures for Certain Vessels.* As mentioned in the notice of meeting, we are evaluating the need for retaining existing security requirements that are contained in 33 CFR part 120, for certain vessels (*e.g.*, large passenger vessels) that could be involved in a transportation security incident. More specifically, the notice asked whether additional security requirements are needed for certain vessel types.

Many commenters noted that the standards of the ISPS Code provided more than adequate security measures and could be considered equivalent to the existing 33 CFR part 120 requirements.

Because we are still evaluating the equivalency of 33 CFR 120 to the requirements in the Vessel Security interim rule found elsewhere in today's **Federal Register**, we do not intend to revise 33 CFR part 120 at this time. However, in the future, this part may be revised or entirely deleted. This will consolidate the security requirements for all vessels in subchapter H.

19. *Vessel Security Recordkeeping.* In the notice of meeting, we requested suggestions or best practices related to recordkeeping. We also asked whether we should prescribe a format for these records.

Numerous commenters asked that industry standards be accepted for recordkeeping and that companies and vessels be allowed to decide where to keep records. Several commenters questioned the need to keep records for two years, while others stated that there was no need to keep records. Several commenters asked that a format not be specified but that the Coast Guard provide clear guidance on what type of information should be kept.

We believe that industries have developed suitable internal guidance for keeping records. These records are essential to ensuring compliance and for this reason we are requiring security records be maintained for 2 years. Specific guidance on what type of information must be kept is included in the Vessel Security interim rule found in today's **Federal Register**, with flexibility to choose their format and where the records are kept.

20. *Company Security Officer Designation.* In the notice of public meeting, we asked whether Company Security Officers should be required to attend training and if company certification is appropriate to verify the Company Security Officer's qualifications. We also acknowledged that many companies already have training programs in place.

Several commenters stated that it was reasonable for the company to train and certificate the Company Security Officer, while other commenters believed it was a conflict of interest. Others commented on whether records should even be kept; some stated that no records should be kept and some recommended that the records should be kept for a period of 1 to 3 years.

We recognize there are no approved courses for the Company Security Officer at this time. In the absence of approved formal training, we intend to allow companies to certify that personnel holding the Company Security Officer position have received appropriate training or possess the job experience required to fulfill their Company Security Officer duties, based on the requirements in the Vessel Security interim rule found in today's **Federal Register**.

We believe that the Company Security Officer's participation in exercises is critical to improving security. In order to ensure the Company Security Officer has participated in appropriate port-level exercises, we are requiring records, including a list of participants, to be kept for 2 years.

In addition to the questions we asked in the notice of meeting, we received several comments outside of those questions regarding the Company Security Officer. Several commenters expressed confusion about the requirements for a Company Security Officer. To clarify, a company with a large fleet may decide to group its vessels and assign a Company Security Officer to each group. This company would then have several Company Security Officers, one Company Security Officer per vessel group. While the Company Security Officers are responsible for the security of the vessels in their group, they may not act as Vessel Security Officer, except as exempted by the requirements in Vessel Security interim rule found in today's **Federal Register**.

21. *Vessel Security Officer Designation.* In the notice of public meeting, we asked whether Vessel Security Officers should be required to attend training and if company certification is appropriate to verify the Vessel Security Officer's qualifications. We also acknowledged that many companies already have training programs in place.

Numerous commenters supported allowing company certification and felt formalized training was a good system to certificate personnel. A small group of commenters saw no need for any formalized training or company certification. We did not receive any comments to our request for suggestions for certain classes of vessels being allowed an alternative to a Vessel Security Officer.

We recognize that Vessel Security Officer security training is not currently formalized, however, it would be beneficial as previously discussed in the *Discussion of Comments* to Maritime Security Public Meetings section of this preamble. In the absence of approved formal training, we intend to allow companies to certify that personnel holding the Vessel Security Officer position have received appropriate training or possess the job experience required to fulfill their Vessel Security Officer duties, based on the requirements in the Vessel Security interim rule found in today's **Federal Register**. Although we did not receive any suggestions on alternatives to a Vessel Security Officer, provisions within the Vessel Security requirements found elsewhere in today's **Federal Register**, do not preclude a Company Security Officer from also acting as a Vessel Security Officer.

22. *Security Training and Drill Requirements for Vessel Personnel.* In the notice of public meeting we requested comments on whether we should require vessel security personnel to attend formal training. We discussed the concept of allowing the company, and its Company Security Officer, Vessel Security Officer, Facility Security Officer, or Vessel Master to certificate security officers and train the vessel personnel in accordance with the requirements. We also asked if prescribing the format for training records would assist the companies.

Several commenters agreed that the company and its Company Security Officer, Vessel Security Officer, Facility Security Officer or Vessel Master should certificate security officers and train the vessel personnel, while a few commenters saw no need for formalized training. A few commenters also stated that the drill and exercise requirements were excessive. Several commenters recommended we provide specific requirements on the type of information that should be recorded, but not require a specific format for record keeping.

As previously stated, there are no approved courses for vessel personnel. In the absence of approved formal training, we intend to allow companies, Vessel Masters, Vessel Security Officers, Facility Security Officers, or Company Security Officers to certify that personnel holding a security position have received the training required to fulfill their security duties.

When training is developed, we will reassess the training and certification requirements in the Vessel Security interim rule found in today's **Federal Register**. We will then propose alternatives or additional requirements in a separate rulemaking, as appropriate.

We have included the specific requirements in the Vessel Security interim rule, found in today's **Federal Register**, on what type of information must be kept, with the vessel owner or operator deciding what format and where the records will be kept.

We believe it is imperative that exercises and drills be conducted to ensure the plans are current and that the personnel are familiar with their responsibilities. Therefore, we have included exercise and drill requirements in the Vessel Security interim rule found in today's **Federal Register**. Security drills and exercises can be incorporated into existing response exercises and drills and we believe that by combining exercises, when possible, the exercises and drilling requirements can be made more efficient.

23. *Certification for Vessels.* In the notice of public meeting we discussed the certification requirements for an ISSC and requested suggestions for how best to verify and certificate compliance.

Many commenters suggested that amending a vessel's Certificate of Inspection or a letter stating compliance with security requirements would be adequate. Other commenters recommended allowing third-party certification rather than Coast Guard certification.

We believe certification and verification can be accomplished during a regular Coast Guard Inspection and the vessel's certificate can adequately reflect compliance. In addition, for those uninspected vessels requiring security measures, other provisions for documentation are provided in the Vessel Security interim rule, found elsewhere in today's **Federal Register**. We have not included provisions for third-party certification, however we have included provisions for Alternative Security Programs that could streamline the certification process.

Facility Security Provisions

24. *Incorporation by Reference.* In the notice of public meeting, we stated we were considering accepting national, State, and industry security standards to meet certain security requirement(s), such as a facility security plan that incorporates lighting or fencing equipment that meet an accepted national standard. We requested that commenters share known national, State, or industry standards that could be used as an equivalent to our requirements in the marine environment and we asked them if they would use such standards, if available.

Many commenters supported our position of including a provision for accepting national, State, and industry security standards as an equivalent to meet certain security requirements. Several commenters confirmed that those within the security industry, such as the fence and lighting industries, should be allowed to continue providing their own security standards and that in general, companies would meet marine industry-wide standards once the Coast Guard approved them. Finally, many commenters expressed concern that if the Coast Guard prescribed measures to be used as industry standards that the measures would be in excess of what is needed.

Traditionally, we incorporate by reference equipment standards we feel are appropriate to use in the maritime environment to enable vessel and facility owners and operators the flexibility to use standards they are familiar with as well as ones that are appropriate to meet the requirements. In the maritime security regulations for subchapter H found in today's **Federal Register**, there is no national, State, or industry equipment standards incorporated by reference because specific standards were not identified. However, a section in this interim rule (part 101) has been reserved for listing equipment standards for incorporation, if found appropriate in the future.

25. *Facility Security Requirement.* In the public notice, we discussed that the SOLAS amendments (chapter XI–2, regulation 10) and the Code (part A and part B, section 14) require facilities to act upon security levels set by Contracting Governments through appropriate protective measures by carrying out certain specified activities (ISPS Code, part A, section 14.2). We also asked whether the security measures should apply to other facilities that were not listed in the notice and whether current activities and protective measures adequately address the security of a facility.

A large number of commenters addressed the issue of which facilities the regulations should be applicable to. This issue has been discussed in the *Applicability of National Maritime Security Initiatives* section above.

We did not receive any comments specifically addressing the request for suggestions on additional requirements that could be used.

Several commenters stated that barge fleeting areas should be covered under the new requirements. To address fleeting areas and the security of the barges that use them we have included fleeting areas in the Facility Security interim rule found in today's **Federal Register**.

26. *Facility Security Assessments Requirement.* In the notice, we discussed the requirements for a facility security assessment contained in the ISPS code and the MTSA. We also discussed our desire to have a facility security assessment for each facility that has to develop a facility security plan. In addition, we asked if there were any recommendations on how to conduct a facility security assessment and if any appropriate alternatives to a facility security assessment already existed that we should consider.

Several commenters stated that they have used NVIC 11–02 titled, ''Security Guidelines for Facilities'' or similar approaches in developing a company assessment plan and found them easy to follow. Other commenters offered alternatives, such as a Coast Guard facility inspection or a Navy facility security assessment.

We have included requirements for facility assessments in the Facility Security interim rule found elsewhere in today's **Federal Register**. In addition we have been assisting in the development of several industry and Federal assessment tools and templates. We are aware that other agencies of DHS (*e.g.*, TSA) are developing a self-assessment tool. We understand that they intend to mandate use of this tool in the future. We recommend that facility owners and operators seek tools from appropriate industry sectors that support or represent them to aid in completing the security assessments. To

reduce the duplication of effort, we also strongly encourage facility owners and operators to use any information that was previously collected during a security assessment as reference material for completion of the applicable areas within the new assessment. There are also provisions in this interim rule for the use of alternative assessment tools however; tools such as the Department of Defense assessment have not been specified because we have focused on the specific needs required for transportation-related assessments.

27. *Facility Security Plans Requirements.* In the public notice, we discussed the ISPS Code (part A and part B, section 16) as well as the MTSA (46 U.S.C. sections 70103 and 70104) that takes into consideration a facility security assessment, and makes provisions for actions at each of the three MARSEC Levels. We also asked for suggestions about additional items or best practices to be addressed within the facility security plan requirements.

We did not receive any comments specifically addressing additional items that the facility security plan should cover, however, many commenters did state that an outline would be a useful tool for development. Several of these commenters went on to say that a ''model plan'' would prove to be a better guide because it would clearly show our expectations of a plan. Several commenters noted that there are companies that own many facilities and vessels, and asked if one combined security plan could be submitted to avoid redundancies in submissions.

The strong response and industry standards submitted as examples of best practices lead us to believe that the maritime community is implementing security measures in many sectors. Many of these industry standards did have ''model plans'' incorporated into them as a development aid. As discussed previously, we will allow organizations to submit their security programs for consideration as an alternative to the requirements in Facility Security interim rule found elsewhere in today's **Federal Register**. The concept of accepting fleet-wide plans or plans that discuss exclusive docking arrangements, or a single plan to cover both a terminal and a vessel, could also be considered Alternative Security Programs and be accepted if they meet the specified requirements.

28. *Submission of Facility Security Plans for Approval.* In the public notice we discussed the ISPS Code, part A, section 16, requiring facilities to develop and maintain a facility security plan that is approved by the Contracting Government in whose territory the facility is located. We asked for suggestions on how facility security plan approvals could be streamlined. We also asked if the format we proposed was appropriate or if an alternative process existed that we should consider.

There was large support for the local COTP to approve facility security plans. Some commenters asked how the Coast Guard would ensure consistency across COTP zones. Several commenters approved of the format Coast Guard presented, but did not want a mandated format.

As stated in the notice of meeting, we intend for the COTP to approve facility security plans and we will also work to ensure there is consistency between COTP zones. The Facility Security interim rule found elsewhere in today's **Federal Register** contains an outline to be followed when constructing a facility security plan. This outline format provides facilities with leeway during the development process of their facility security plan. Contracting Governments to SOLAS will approve the security plans for port facilities within their territory. These Contracting Governments are also responsible for notifying the IMO regarding which port facilities within their territory have approved security plans. As discussed previously, a vessel calling on a foreign port facility that does not comply with SOLAS and the ISPS Code or at a port that does not maintain effective anti-terrorism measures, will be subject to scrutiny under our Port State Control Program to ensure that the security intended to be achieved by this subchapter will not be compromised.

29. *Facility Security Recordkeeping.* In the notice of meeting, we requested suggestions or best practices related to recordkeeping. We also asked whether we should prescribe a format for these records.

Many commenters supported our position on keeping records for 2 years, while others questioned it and some opposed the concept of maintaining these records at all. Numerous commenters asked that industry standards be accepted or that companies and facilities be allowed to decide where to keep records. Several commenters requested specific guidance on the type of information that should be kept, but did want the format not be specified. Some commenters proposed that third parties be required for record keeping.

We believe that industries have developed suitable internal guidance for keeping records. These records essential to ensuring compliance and for this reason we are requiring security records be maintained for 2 years. Specific guidance on what type of information must be kept is included in the Facility Security interim rule found in today's **Federal Register**, with flexibility to choose their format and where the records are kept. Finally, we feel requiring a third party to keep all records would cause undue burden to the facilities.

30. *Facility Security Officer.* In the notice of public meeting, we asked whether Facility Security Officers should be required to attend training and if company certification is appropriate to verify the Facility Security Officer's qualifications. We acknowledged that many companies already have training programs in place. We also asked if Facility Security Officers might be performing their duties for more than one facility.

The majority of the commenters stated that companies should be allowed to verify qualifications and certificate Facility Security Officers. A few commenters felt it was a conflict of interest for the company to certificate a Facility Security Officer as meeting the knowledge level. We also received many comments about required formal training; some of the comments were in favor and some felt it was not necessary. Several commenters submitted examples of cases where the Facility Security Officer could be responsible for more than one facility. Finally, many commenters stated that the record keeping requirements were reasonable and could be easily instituted, while others stated this task would be too time consuming.

We recognize that Facility Security Officer security training is not currently formalized, however, it would be beneficial as previously discussed in the *Discussion of Comments* to Maritime Security Public Meetings section of this preamble. In the absence of approved formal training, we intend to allow companies to certify that personnel holding the Facility Security Officer position have received appropriate training or possess the job experience required to fulfill their Facility Security Officer duties, based on the requirements in the Facility Security interim rule found in today's **Federal Register**. We do not see this authority as a conflict of interest.

We agree that a Facility Security Officer could oversee the security operations at more than one facility, where facility security plans are very similar because of similar operations and in close proximity of each other. This decision will be left to the local COTP when plans are being approved.

31. *Security Training, Drills and Exercises for Facility Personnel.* In the notice of public meeting we requested comments on whether we should require facility security personnel to attend formal training. We discussed the concept of allowing the Facility Security Officer to certificate security officers and train the facility personnel in accordance with the requirements. We also asked if prescribing the format for training records would assist the companies.

Several commenters recommended that we provide specific guidance on the type of information that should be recorded, but not require a specific format for the recordkeeping. Other commenters stated that the drill and exercise requirements were excessive.

As previously stated, there are no approved courses for facility personnel. In the absence of approved formal training, we intend to allow Facility Security Officers to certify that personnel holding a security position have received the training required to fulfill their security duties.

When training is developed, we will reassess the training and certification requirements in the Facility Security interim rule found in today's **Federal Register**. We will then propose alternatives or additional requirements in a separate rulemaking, as appropriate.

We have included the specific requirements in the Facility Security interim rule, found in today's **Federal Register**, on what type of information must be kept, with the facility owner or operator deciding what format and where the records will be kept.

We believe it is imperative that exercises and drills be conducted to ensure security plans are current and that the personnel are familiar with their responsibilities. We also believe that the Facility Security Officer's participation in exercises is critical to improving security. Therefore, we have included exercise and drill requirements in the Facility Security interim rule found in today's **Federal Register**. Security drills and exercises can be incorporated into existing response exercises and drills and we believe that by combining exercises, when possible, the exercises and drilling requirements can be made more efficient.

32. *Certification for Facilities.* In the notice of meeting, we requested suggestions for verification and certification that facilities do comply with the security regulations. We also asked whether we should allow companies to certify their facilities.

A large number of commenters stated that self-certification which reflects a current industry standard and has an independent audit would be appropriate. Other commenters supported the role of the Coast Guard in oversight during the certification process.

We intend to approve all facility security plans and compliance with the requirements in the Facility Security Interim rule found in today's **Federal Register**. We believe certification and verification can be accomplished during a Coast Guard Inspection and the facility's plan approval letter sufficiently documents compliance when viewed in conjunction with other security-related records. We have not included provisions for third-party certification in the Facility Security interim rule, found in today's **Federal Register** however we have included provisions for Alternative Security Programs that could streamline the certification process.

Other Security Provisions

33. *Permanent Hull Marking Requirement.* In our notice of meeting, we discussed the SOLAS amendments creating a new regulation in Chapter XI–1 (Regulation 3) that requires vessels to have their identification number permanently marked on their hull and in an easily accessible place on the transverse bulkhead of the machinery space or on another suitable interior location, as specified. We discussed our intention not to extend the application of this requirement to vessels limited to domestic voyages and requested comments on this SOLAS provision and its application to the domestic trade.

An extremely large number of comments were received on this issue. Almost every comment strongly supported our concept to not require the hull markings for vessels that only engage in domestic voyages, including all international voyages not subject to SOLAS. Several commenters asked for exemptions for certain vessel types such as historically significant vessels. We believe that the requirement should not be extended to domestic vessels and, in the Vessel Security requirements found elsewhere in today's **Federal Register**, we have only applied the requirement to those vessels obligated to meet the SOLAS requirement. In accordance with SOLAS, a passenger vessel of 100 gross tonnage, ITC and upwards, and cargo vessels of 300 gross tonnage, ITC and upwards, on an international SOLAS voyage should be marked in accordance with its guidance.

34. *Continuous Synopsis Record Requirement.* In our notice of meeting, we discussed the SOLAS amendments that created a new regulation in Chapter XI–1 (regulation 5) that requires vessels to maintain and update a Continuous Synopsis Record, to be kept on board, that contains information such as the name of the flag administration, the date of the vessel's registry, the vessel's identification number, etc. We discussed our intention not to extend the application of this requirement to vessels limited to domestic voyages and requested comments on this SOLAS provision and its application to the domestic trade.

An extremely large number of comments were received on this issue. Almost every comment strongly supported the Coast Guard position of not requiring the Continuous Synopsis Record for vessels that only engage in domestic voyages. Many of the comments stated that the information was already on board the vessel and readily available. A few comments were in favor of requiring the information for domestic vessels stating that if the information were in one place it would be useful. While we believe that having the information in one document would be helpful in certain instances, we feel that the value added by requiring another document to be carried on a domestic vessel is not sufficient to do so. The information on the Continuous Synopsis Record is currently maintained on the Certificate of Inspection and the Certificate of Documentation, both of which are required to be on a vessel when it is operating. Therefore, we believe that the requirement should not be extended to domestic vessels and, in the Vessel Security requirements found elsewhere in today's **Federal Register**, we have only applied the requirement to those vessels obligated to meet the SOLAS requirement.

35. *Security Alert System Requirement.* In our notice of meeting, we discussed the SOLAS amendments that created a new regulation in Chapter XI–2 (regulation 6) that requires vessels to have a security alert system. The Coast Guard is considering applying the requirement to vessels limited to domestic voyages that are engaged in the transport of certain dangerous cargos. We discussed our intention to extend the application of this requirement to vessels on international voyages and also requested comment on whether this type of system could be useful on certain domestic voyages such as those involving the transportation of certain dangerous cargos or large passenger vessels.

Many commenters supported extending the requirement to other cargoes and noted the need for alerting us if there were any problems in a quick

and efficient manner. In contrast, many other commenters strongly opposed the extension of this system to the domestic fleet and questioned the functionality of it; asking what would be the resulting action once an alert was sent, especially from a remote location. Additionally, some commenters stated a desire to voluntarily install the equipment and use the system once it has been proven effective on a large scale.

While we believe an alert system is a valuable way to communicate to law enforcement if a vessel operator perceives a threat or a security incident is imminent, alternatives can also be used that may also prove effective (such as code words in a routine radio call or a pre-designated call word). Until vessel plans and AMS Plans are established and exercised to evaluate communications and identify gaps, we do not intend to extend this requirement to domestic vessels. However, if future communication exercises prove that alert systems already within the maritime community do not adequately address the appropriate vessels, we may require them in a separate rulemaking. Therefore, in the Vessel Security requirements found elsewhere in today's **Federal Register**, we have only applied the requirement to those vessels obligated to meet the SOLAS requirement.

36. *Fixed and Floating Platforms Requirements.* The International Maritime Organization issued a resolution titled, ''Establishment of Appropriate Measures to Enhance the Security of Ships, Port Facilities, MODUs on Location and Fixed and Floating Platforms not covered by Chapter XI–2 of the 1974 SOLAS Convention'' which was adopted by the Conference on Maritime Security as Resolution 7 on December 12, 2002. This resolution encourages Contracting Governments to consider security requirements for these maritime operators and platforms. In the notice, we discussed these international efforts and requested comments on whether security requirements should be placed on the offshore fixed and floating platforms.

Many comments were received which emphasized that fixed and floating platforms should be addressed within the port security plan. However, some commenters disagreed stating that even if included in a port security plan, the degree of security would be very different among platforms due to the potential for different enforcement procedures. Other commenters supported the position that while security measures are appropriate for MODUs and fixed and floating platforms, but believed that any regulations should be carefully tailored to the unique operating environment of the offshore oil and natural gas exploration industry. These commenters also noted that, in their opinion, only a minimal amount of offshore platforms actually pose a viable security risk.

In accordance with the MTSA, we conducted an initial assessment on vessels and U.S. facilities as discussed in the *Applicability of National Maritime Security Initiatives* section above. Working with the Mineral Management Service (MMS) we identified certain operational quantities and personnel thresholds that are at a higher risk of a transportation security incident. Therefore, in the OCS Facility Security requirements found elsewhere in today's **Federal Register**, we have only applied requirements to those offshore platforms. However, we are also concerned about the consistency of security measures throughout the offshore community and have worked extensively with industry to develop standards that substantially improve security for this industry. The American Petroleum Institute (API) recommended practice titled, ''API RP70 Security for Offshore Oil and Natural Gas Operations, 1st Edition'' is available and its use is strongly encouraged for all owners and operators in this industry. Other platforms not included in the narrow operational category discussed above will be covered as part of the AMS Plan requirements in the ''Area Maritime Security'' (USCG–2003–14733) interim rule found elsewhere in today's **Federal Register**. However, in the future, we intend to review the need for further security requirements related to the offshore industry and may require compliance with industry standards such as API RP70 under a separate rulemaking.

37. *Seafarers' Identification Criteria Requirements.* In our notice of meeting, we noted the MTSA (46 U.S.C. 70111) requires the Secretary to establish enhanced crewmember identification. In addition, section 103 of the MTSA encourages the Secretary to negotiate an agreement for an international system of identification for seafarers. The Coast Guard has been working with other agencies of DHS (*e.g.*, TSA and Immigration and Naturalization Service), the Department of State, the Maritime Administration, and others to support the work of the International Labour Organization (ILO). In the notice, we stated our intent to await the outcome of the June 2003 ILO conference prior to developing further seafarer identification domestic policy. Because this interim rule has been published in a timeframe that did not allow us to incorporate the results of the ILO conference into it, we will issue any further requirements pertaining to seafarer identification under a separate rulemaking, if appropriate.

In addition to the above, the U.S. Government is mandated through the MTSA (46 U.S.C. 70105) to develop and implement a Transportation Security Card to control access to secure areas on a vessel or facility. Other agencies of DHS (*e.g.*, TSA) have been developing the TWIC to satisfy the MTSA requirement. Pilot testing of the TWIC is scheduled for two ports, each in communication with a Transportation Security Administration central control point. This pilot project allows the other agencies of the DHS (*e.g.*, TSA) to leverage key regional stakeholders and analyze life cycle and cost benefits, as well as the performance of various forms of identification technologies.

Recognizing that the implementation of the TWIC and the ILO efforts on seafarers identification involve substantial negotiation and development, we requested comments on our existing clarification of regulations notice titled ''Maritime Identification Credentials'' published in the **Federal Register** on April 7, 2002 (67 FR 51082). This document can be viewed on the DOT Document Management System at *http://dms.dot.gov* under Docket # USCG–2002–12917. We requested comments in the notice of whether changes to this clarification were needed or if other forms of identification should be recognized in the interim.

Many commenters suggested that we accept merchant mariner documents (MMD) and facility-issued ID cards as a form of identification. Some commenters stated that the existing requirements the Coast Guard set out in its clarification notice are sufficient until the TWIC project is complete. The majority of commenters submitted specific recommendations or suggestions with regard to the TWIC.

Under the current clarification notice, identification such as an MMD or a facility-issued card meeting the requirements set out in the notice are acceptable. Based on the lack of comments requesting amendments to the clarification, we will not amend the requirements at this time. We have incorporated them into this interim rule in order to ensure personal identification is addressed in subchapter H. We will also continue furthering the identification efforts at ILO and through the TWIC project. Comments received on this docket that relate to the TWIC project have been

forwarded to the Transportation Security Administration's docket on that subject for consideration under that rulemaking, as appropriate.

38. *Advanced Notice of Arrival (ANOA) Requirements.* In our notice of meeting, we discussed that the Coast Guard had a notice of proposed rule titled ''Notification of Arrival in U.S. Ports'' published in the **Federal Register** on June 19, 2002 (67 FR 41659). In the meeting notice, we discussed our intent to review the notification requirements based on the additional provisions contained in the SOLAS amendments and the ISPS Code and asked for comments relating to these provisions (specifically SOLAS Chapter XI–2 Regulation 9). Additionally, we requested comments on how foreign flag vessel owners or operators could provide us advance notification on their compliance with the ISPS Code, part B. Finally, we asked if any notification requirements for the upper Mississippi River (above mile marker 235) should be considered for security purposes.

Several commenters suggested that it would be difficult for the vessel to provide the proper information mentioned in the SOLAS amendments or the ISPS Code. Several other commenters stated that the ANOA would be the proper place for a vessel to affirm that it is in compliance with the ISPS Code. Several comments were submitted with respect to the NOA rulemaking published in the **Federal Register** on June 19, 2002 (67 FR 41659). Several commenters expressed reservation at the value of requiring ANOA above mile marker 235 on the Mississippi River or any other remote locations and suggested it not be required.

We have reviewed the issue and currently believe that an alternative process being developed locally could be more effective. We are incorporating notice of arrival requirements in the Vessel Security interim rule found elsewhere in today's **Federal Register** to capture the information needed to assess a vessel's compliance with the security requirements of SOLAS Chapter XI–2 and the ISPS Code. The reporting requirements are similar to those required when the International Safety Management Code was implemented and will allow us to have the basic information needed for the evaluation of vessel's security compliance prior to the vessel entering port. Since the publication of the notice of meeting, the Coast Guard published its final rulemaking titled ''Notification of Arrival in U.S. Ports'' published in the **Federal Register** on February 28. 2003 (68 FR 9537). Comments submitted to the public meeting notice that related to the proposed Notification of Arrival (NOA) rulemaking docket were not considered, because the proposed rulemaking comment period for the NOA rulemaking closed prior to the end of the public meeting notice comment period. As for the Mississippi River above mile marker 235 and other remote location reporting requirements, the interim rule does not add any further requirements to the notice of arrival requirements. We will continue reviewing notice of arrival information and the reporting requirements in the future to determine if further requirements are needed to ensure the security provisions are covered. Any additional requirements would be proposed in a future rulemaking.

39. *Foreign Port Assessments.* In our notice of meeting, we discussed Section 102 of the MTSA (46 U.S.C. 70108) which requires the Secretary to assess the effectiveness of antiterrorism measures maintained at a foreign port that serves vessels departing on a voyage to the U.S. In the notice, we discussed the concept of accepting a foreign government's approval of the respective port facility security plans, thereby attesting to their compliance with SOLAS and the ISPS Code, to provide the initial assessment of that foreign port's antiterrorism security. We also suggested that we were considering any other relevant information or the possibility of conducting audits in foreign ports and requested comments on these ideas.

Several commenters stated that accepting the foreign government's approval of a port facility security plan supports the international provisions and places the responsibility in the proper place. Many commenters did ask how the U.S. would keep track of those not meeting their obligations internationally with respect to the port facility requirements in SOLAS Chapter XI–2 and the ISPS Code. Many commenters also stated that the level of compliance of a facility would be directly related to the importance the Contracting Government places upon their obligations to meet the ISPS Code requirements.

It is each Contracting Government's responsibility to ensure compliance; however, it remains our intent to verify the compliance of foreign port facilities in the future and we will work with relevant Contacting Governments to facilitate these evaluations. In the ''Area Maritime Security'' (USCG–2003–14733) interim final rule found elsewhere in today's **Federal Register**, recognition of another Contracting Government's port facility security plan is discussed. However, as mentioned, those vessels calling on foreign port facilities that do not meet the requirements of SOLAS and the ISPS Code may be subject to control and compliance measures, even if the vessel itself has a valid ISSC and an approved security plan.

40. *Automatic Identification System (AIS) Requirements.* In our notice of meeting, we discussed regulation V/19 of SOLAS, which sets forth the international requirements for the carriage of AIS, including an implementation schedule that was recently accelerated by the newly adopted amendments to SOLAS. Domestically, section 102 of the MTSA (46 U.S.C. 70114) gives the Secretary additional broad discretion to require AIS on any vessel operating on the navigable waters of the U.S. if necessary for the safety of navigation. In the notice, we discussed our consideration of AIS for security purposes as an essential element in ensuring the safety of navigation. We also noted that the Department of Transportation's Fall 2002 Unified Agenda (67 FR 74853, December 9, 2002), reflected a separate AIS notice of proposed rulemaking (NPRM) which we anticipated publishing during the early months of 2003. However, since the SOLAS amendments made in December 2002 and the MTSA enactment directly impacted this intended notice of proposed rulemaking, which had not taken into account the provisions of the MTSA, we withdrew the NPRM from consideration to assess the impact of both and evaluate options for further development. We did ask for comments in the notice of public meetings on whether certain vessel types currently listed in the MTSA AIS requirements should be considered candidates for exemption or if the MTSA AIS application was too limited and should be expanded. We also requested comments on whether there are navigable waters of the U.S. where the AIS carriage requirement should be waived because no security benefit would be derived from the requirement.

Several commenters stated that they believed small passenger vessels should not be required to carry AIS due to the equipment expense. Several other commenters asked that certain vessel types such as fleeting tugs, commercial assistance tugs, barges, and vessels of gross tonnage less than 300 on domestic voyages be exempted from the regulations. In contrast, a few commenters suggested that all vessels be required to carry AIS. Several other commenters provided specific areas and types of operations where the system

would be beneficial. A series of commenters asked what the policy would be if the SOLAS dates and the MTSA dates were in conflict. Several comments also suggested that vessels operating on remote waterways not be required to carry the system because it was not of any value to the safe navigation of the vessel.

We believe that the MTSA AIS application is consistent with SOLAS and the domestic application is appropriate for the safety and security of navigation within our ports and waterways. Therefore, we have included this application in the AIS interim rule and notice for comment found elsewhere in today's **Federal Register**. We have also included a process for vessel owners and operators to request to waive or exempt the AIS requirements.

Several comments were submitted that did not reflect the questions asked; however, a few are germane to the general subject of security. A few commenters asked how the Coast Guard intends to receive the AIS signal. A few commenters questioned the security of AIS and stated that they believed it could be used against a vessel or a port by terrorists; these comments went on to suggest that AIS had no benefit from a security aspect and was not applicable. Several commenters also proposed alternatives to AIS at different MARSEC Levels. Finally, a few commenters strongly suggested that we not require AIS in an interim rule but rather issue a notice of proposed rulemaking to ensure adequate notice and comment for this equipment requirement.

We believe that there are quantifiable security and safety benefits from AIS. We are currently upgrading the Vessel Traffic Service (VTS) systems within the ports to be able to receive and process AIS information. As for the security of AIS, the signal is not secure however; we believe that the benefit of being able to quickly identify and warn mariners about threats directly related to their vessels out weighs the potential security gap presented by AIS's open broadcast nature. We are not considering alternates to AIS for those vessels that are not included in the MTSA requirements but have requested comments on the AIS equipment standards and requirements as well as nationwide implementation in the notice for comments on AIS that is found elsewhere in today's **Federal Register.** In the future, we may explore other long range tracking alternates and we will continue work in expanding AIS functionality (*e.g.,* long range communication interfacing) and progeny (*e.g.,* AIS Class A derivatives, AIS Class B), in pursuit of other options for those vessels not required to have AIS though could benefit from the safety and security aspects of this technology.

We thoroughly considered the option of issuing a notice of proposed rule for AIS prior to issuing the interim rule found elsewhere in today's **Federal Register.** Based on the strong language of section 102(d) of the MTSA, which includes ''The Secretary shall issue an interim final rule as a temporary regulation implementing this section * * * as soon as practicable after the date of enactment of this section, without the regard to the provisions of chapter 5 of title 5, * * *'', we determined that AIS, as part 102, needed the same accelerated treatment as the other security requirements presented in the interim rules issued by the Coast Guard and found elsewhere in today's **Federal Register**. We have provisions for comments to this interim rule and will consider your input prior to the final rulemaking. Additionally, we have included a separate notice of comment found elsewhere in today's **Federal Register** to ensure that vessel owners and operators are afforded ample opportunity to comment on this equipment carriage requirement in the broad nationwide application that MTSA suggests.

Discussion of Interim Rule

This Interim rule establishes parts 101 and 102 in new subchapter H to title 33 of the Code of Federal Regulations. It provides the General Provisions for all of subchapter H, and is broken down into five subparts, which we will now discuss in order.

Part 101—Subpart A—General

Subpart A, section 101.100 explains the purpose behind all of the Regulations found in subchapter H. That purpose is to increase the level of maritime security found in our nation's ports, while at the same time aligning our domestic maritime security regulations with international standards, wherever such alignment is appropriate. These regulations should dissuade those persons or groups that would seek to disrupt the maritime elements of the national transportation system by ensuring that security arrangements are as compatible as possible for vessels trading internationally.

Subpart A, section 101.105 goes on to define the terms that are used in subchapter H. Definitions found in this section of part 101, subpart A are applicable to the entire subchapter. We have included all definitions in part 101 in order to give the reader a common place for reference, a ''one stop shopping'' of sorts.

Many of the definitions are self-explanatory, so we have not gone into detail about them here. For brevity, we are limiting this discussion to those definitions that we think may be confusing or novel. For instance, the MTSA and the ISPS Code use different terms to define similar, if not identical, persons or things. These differing terms sometimes match up with the terms used in subchapter H, but sometimes they do not. Thus, in some definitions you will find references to other terms, used in the MTSA or the ISPS Code. We are including a table of these terms here, for easy reference.

TABLE 4.—EQUIVALENT TERMS

Subchapter H terms	USCG terms	MTSA terms	ISPS code terms
Plans			
Area Maritime Security (AMS) Plan	Port Security Plan	Area Maritime Security Transportation Plan.	Port Facility Security Plan.
Vessel Security Plan	Vessel Security Plan	Vessel Security Plan	Ship Security Plan.
Facility Security Plan	Facility Security Plan	Facility Security Plan	None.
Assessments			
Area Maritime Security (AMS) Assessment.	Port Security Assessment	None	Port Facility Security Assessment.
Vessel Security Assessment	Vessel Security Assessment	Vessel Security Assessment	Ship Security Assessment.

TABLE 4.—EQUIVALENT TERMS—Continued

Subchapter H terms	USCG terms	MTSA terms	ISPS code terms
Facility Security Assessment	Facility Security Assessment	Facility Security Assessment	None.
People			
Captain of the Port (COTP)	Captain of the Port (COTP)	Federal Maritime Security Coordinator (FMSC).	Port Facility Security Officer (PFSO).
Company Security Officer	Company Security Officer	Company Security Officer	Company Security Officer.
Vessel Security Officer	Vessel Security Officer	Qualified Individual	Ship Security Officer.
Facility Security Officer	Facility Security Officer	Qualified Individual	None.
Area Maritime Security (AMS) Committee.	Port Security Committee	Area Maritime Security Advisory Committee.	None.

We defined ''company'' broadly in order to ensure that we captured all persons and/or legal entities that may in fact own or operate a vessel or facility under this subchapter. We did not list out specific legal entities, in order to avoid unintentionally omitting one, making enforcement more difficult as new legal entities are created. We interpret our definition to include the following legal entities: Corporations, partnerships, business trusts, associations, joint ventures, sole proprietorships, and unincorporated organizations.

We chose the term ''dangerous substances and devices'' for specific reasons. The ISPS Code uses the phrase ''weapons, dangerous substances or devices'' when identifying the intent of certain security measures. We use dangerous substances and devices because these interim rules do not prohibit weapons that are carried in accordance with the applicable local, State, or federal laws. However, vessel or facility owners or operators, in their own proprietary capacity, may prohibit lawfully possessed weapons as a condition of carriage/entrance. They may also develop and implement procedures whereby weapons and ammunition are temporarily relinquished to the vessel or facility owner or operator and placed in a secure location for the duration of the voyage or stay at the facility. The Coast Guard will retain the authority to impose restrictions on owners or operators when necessary to ensure safety or security, or to secure the observance of rights or obligations of the U.S., especially at heightened threat conditions. The Coast Guard is working with DHS (*e.g.,* TSA) to develop an intermodal policy regarding items that passengers may be prohibited from carrying. The policy is still being developed but may affect the carriage of certain weapons onboard certain passenger vessels.

We defined ''international voyage'' to include those vessels that solely navigate the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Antiocosti Island and, on the north side of Anticosti Island, the 63rd meridian.

We chose to apply length thresholds using the definition of ''registered length'' instead of overall length, under the authority of 46 U.S.C. 70114(2). This was done to facilitate enforcement and minimize confusion for vessel owners. Registered lengths are assigned for all documented vessels of the U.S. and appear in Coast Guard databases and on Certificates of Documentation. Conversely, overall lengths can vary as a function of voyage type, and are not assigned for all documented vessels of the U.S. In many cases the two definitions coincide, and where they do not coincide, the registered length is slightly less than overall length.

We have expressed gross tonnage thresholds in one of two ways. If the threshold must be applied using the vessel's gross tonnage measurement under 46 U.S.C. Chapter 143, Convention Measurement, the threshold is expressed in terms of ''gross tonnage, ITC.'' If the threshold must be applied using the vessel's gross tonnage measurement under 46 U.S.C. Chapter 145, Regulatory Measurement, the threshold is expressed in terms of ''gross register tons.'' For those vessels that only have a gross tonnage, ITC measurement, yet the requirement calls for a gross register tons threshold, then the gross tonnage, ITC measurement must be used.

We have included a definition of the phrase ''Maritime Security (MARSEC) Level,'' as well as definitions for each individual MARSEC Level. MARSEC Level, in general, refers to the prevailing threat environment to the maritime elements of the national transportation system. As the threat of a transportation security incident increases, the individual MARSEC Level moves higher, from one to three. Additional discussion on the concept of MARSEC Levels and how they interplay with DHS's HSAS is included below in the discussion for subpart B.

We have also defined a new document, called a Maritime Security (MARSEC) Directive. All MARSEC Directives will qualify as SSI under 49 CFR 1520.7 of the Transportation Security Administration interim rule on SSI, that will be published in the near future. Once published, we will post a copy of this interim rule to the docket. The Coast Guard MARSEC Directives will be consistent with the National Transportation System Security Plan (NTSSP) and in accordance with Transportation Security Directives, as established by the Transportation Security Administration. Additional discussion on what a MARSEC Directive is, how MARSEC Directives will be issued and the proper response to a MARSEC Directive is included below in the discussion for subpart D.

We have adopted the MTSA definition for ''transportation security incident.'' We also adopted the ISPS Code definitions for ''Company Security Officer'' and ''Vessel Security Officer.'' Using these two definitions as our basis, we were able to also define ''Facility Security Officer.''

We have also defined the phrase ''waters subject to the jurisdiction of the U.S.'' to include the navigable waters of the U.S., the Exclusive Economic Zone (EEZ), the seabed and subsoil of the OCS of the U.S. and the resources thereof and the waters adjacent thereto.

Subpart A section 101.110 sets the applicability for all of subchapter H. As stated, it is very broad, covering all vessels, structures, and facilities of any kind, located in, on, or adjacent to waters subject to the jurisdiction of the U.S. This broad application is necessary to cover all entities affected by at least one part of new subchapter H. Each individual part contains a separate applicability section, which is more

narrow than that contained in the General Provisions of part 101.

In section 101.115 we have incorporated by reference the ISPS Code, 2003 Edition. Specifically, we are incorporating the amendments adopted on 12 December 2002 to the Annex to The International Convention for SOLAS, 1974 and the ISPS Code, parts A and B, also adopted on 12 December 2002. The material is incorporated for all of subchapter H.

Sections 101.120 and 101.125 of subpart A reflect the flexibility that the Coast Guard has tried to build into these regulations. Section 101.120(a) reflects one of the SOLAS amendments, and allows the U.S. to agree upon alternative security arrangements with other SOLAS contracting governments, but only to cover short, international voyages on fixed routes between facilities subject to the jurisdiction of the U.S. and facilities subject to the jurisdiction of the other contracting government. Any vessel covered by one of the agreements is prohibited from engaging in any vessel-to-vessel activity, unless it would be conducting the vessel-to-vessel activity with another vessel covered by the same agreement.

Section 101.120(b)–(c) allows applications for approval of Alternative Security Programs. As noted in the discussion of comments section above, we received many comments supporting the idea of allowing vessels or facilities to submit security plans or programs that meet, as an example, an industry standard, instead of requiring them to follow the plan requirements included in this subchapter, SOLAS, or ISPS Code, parts A and B. We have, accordingly, built this flexibility into the regulation. Once an Alternative Security Program is approved, it will be added to Section 101.125. An up-to-date list will also be kept by G–MP, and will be accessible on the Internet.

Section 101.120(c) details the information that must be included in an application for approval. Part of that application includes an assessment of what vessels or facilities may use the proposed Alternative Security Program. This is important because not all Alternative Security Program will be appropriate for all vessels or facilities. For example, not all approved Alternative Security Programs for facilities will fit the security planning requirements necessary for a CDC facility. As part of the approval process, the Commandant will indicate, in his approval letter, those types of vessels or facilities that may use the approved Alternative Security Programs.

Section 101.130 allows the Commandant to accept equivalent security measures, so long as they are at least as effective as those that are mandated in subchapter H, SOLAS, or ISPS Code, parts A and B. This allowance is made for both vessels and facilities required to have security programs under parts 104, 105, or 106. Equivalent security measures differ from Alternative Security Programs. Once an Alternative Security Program is approved, any vessel or facility that meets the approval qualifications may meet the provisions of the Alternative Security Program in lieu of meeting the security plan requirements of the applicable part of this subchapter. Equivalent security measures, once approved, are only approved for the particular vessel or facility making the application.

Equivalent security measures are those distinct security measures, such as fences or alarm systems, which may be required within a security plan. Requests for approval of equivalent security measures should be made at the time that a vessel or facility is submitting their security plan for approval, and they should be made to the appropriate plan approval authority under part 104, 105, or 106.

Part 101—Subpart B—Maritime Security Levels

The SOLAS Amendments and ISPS Code lay out a series of requirements for Contracting Governments and Administrations to mandate security levels that are appropriate for their vessels and ports. The Coast Guard is implementing these requirements in coordination with the HSAS. Homeland Security Presidential Directive (HSPD)–3 defines a five-tiered system for setting threat levels. We are implementing MARSEC Levels, which directly correspond to the security levels as discussed in the SOLAS amendments and the ISPS Code. The MARSEC Levels will be linked to the HSAS as shown in the table below. This table is also included in the regulation itself.

TABLE 5.—RELATION BETWEEN HSAS, MARSEC LEVELS AND SOLAS-REQUIRED SECURITY LEVELS

Homeland security advisory system (HSAS) threat condition	Equivalent maritime security (MARSEC) level	Equivalent SOLAS-required security level
Low: Green Elevated: Blue Guarded: Yellow	Maritime Security Level 1	Security Level 1.
High: Orange	Maritime Security Level 2	Security Level 2.
Severe: Red	Maritime Security Level 3	Security Level 3.

At all times, the Commandant retains the discretion to adjust the MARSEC Level when necessary to address any particular concerns or circumstances related to the maritime elements of the national transportation system. Additionally, the COTP retains the authority to temporarily raise the MARSEC Level for his/her AOR, or a specific segment thereof, when necessary to address exigent circumstances immediately affecting the security of the maritime elements of the national transportation system within his/her AOR.

Part 101—Subpart C—Communication

Subpart C, section 101.300 details the methods the COTP will use to communicate changes in the MARSEC Level. Note that individual ATMS Plans may outline additional communication methods that are particular to the Plan's covered area. It also details the threat information that the COTP will, when appropriate, communicate to the port stakeholders, vessels, and facilities located within his or her AOR. Finally, this section requires vessel and facility security plan holders to confirm that they have implemented the measures and/or actions in their security plans that correspond to the MARSEC Level.

Subpart C, section 101.305 describes the reporting requirements placed on vessel and facility security plan holders. First, it requires that they report suspicious activities that may result in a transportation security incident. These reports are to be made to the National Response Center (NRC), and the

regulation lists several methods of contacting the NRC. We also require that security plan holders call the NRC to report breaches of security. This captures a broader range of activities that, while not severe enough to pose a threat of a transportation security incident, are still considered serious. Examples of breaches of security include attempts to smuggle dangerous substances or devices onto a facility or vessel, attempts to break into the facility or vessel, or attempts to tamper with, alter, or mix cargos. They would not, however, include acts of vandalism.

It is advised, although not required, that vessel and facility security plan holders familiarize themselves with the type of information that will be asked of them when placing a call to the NRC. They may do this by visiting the NRC's Web site at *http://www.nrc.uscg.mil*, clicking on ''Services,'' then clicking on ''Online Reporting.'' This will call up a menu of several different types of incidents, such as vessel, pipeline, and aircraft. Clicking on any of these types will open the reporting form.

This section also encourages other persons or entities to call the NRC to report suspicious activities that may result in a security incident.

Vessel and facility security plan holders are also required to report the onset of an actual transportation security incident to their local COTP or, if a facility regulated by part 106 of this subchapter, their District Commander. They must also immediately begin implementing the provisions of their security plan, including contacting any other individuals or entities (such as the NRC or local authorities) listed within their security plan.

Section 101.310 of subpart C lists two methods of communication, alert systems and AIS, which may be used to augment the communications methods listed in a vessel's security plan. Alert systems are discussed in more detail in part 104 of this subchapter; AIS is covered in 33 CFR parts 26, 161, 164 and 165.

Part 101—Subpart D—Control Measures for Security

This section also explicitly states that the provisions of subchapter H do not limit the powers conferred by any other law or regulation upon any Coast Guard commissioned, warrant, or petty officer.

Subpart D, section 101.405 describes when the Coast Guard will issue a Maritime Security (MARSEC) Directive. MARSEC Directives will set mandatory measures that all defined entities must meet in a specified time. These entities will also be required to verbally confirm, to the local COTP or District Commander (as appropriate), receipt of the MARSEC Directive, as well as specify the method by which the mandatory measures have been (or will be) met. This section also builds in some flexibility by allowing the MARSEC Directive recipient to submit proposed equivalent security measures to the local COTP or District Commander (as appropriate), if the MARSEC Directive recipient is unable to implement the measures mandated in the MARSEC Directive. However, the entity will only be able to propose such alternatives for the length of time specified in the MARSEC Directive, and he/she will be required to implement any alternative measure that the COTP does approve.

The Coast Guard plans to use MARSEC Directives to mandate additional security measures that are SSI. They may be applicable to all maritime elements of the national transportation system, or they may impose additional security measures on specific maritime elements of the national transportation system. As stated, only the Commandant or his/her delegate will issue these MARSEC Directives at the national level. All MARSEC Directives will be designated and disseminated as SSI, in accordance with 49 CFR part 1520 (to be amended by the Transportation Security Administration). As a result, the MARSEC Directives will only be issued to those persons who can demonstrate that they are a covered person and that they have a need to know, as those terms are defined in the SSI regulation. Company, Vessel, and Facility Security Officers should familiarize themselves with the SSI regulation.

When a new MARSEC Directive is issued, the Coast Guard plans to publish, in the **Federal Register** and through other means (local notices to mariners, press releases, etc.), that it has issued a new MARSEC Directive. The MARSEC Directives will be individually numbered, and will be assigned to a series that corresponds with the part of this subchapter to which the MARSEC Directive refers. For example, the first MARSEC Directive addressing a new requirement for vessels regulated under part 104 of this subchapter would be identified as MARSEC Directive 104–01.

Upon receiving notice that a new MARSEC Directive has been issued, affected entities would contact or be contacted by their local COTP (or, if appropriate, their District Commander) to receive a copy of the MARSEC Directive. The COTP or District Commander will confirm, prior to distributing the MARSEC Directive, that the requesting entity is a covered person with a need to know, and that the requesting entity will safeguard the MARSEC Directive as SSI. Thus, continuing with the example from the previous paragraph, upon receiving notice that a MARSEC Directive in the 104 series has been issued, owners and operators of vessels covered by part 104 of this subchapter would need to contact their local COTP to obtain a copy of the MARSEC Directive. They would then be required to comply with the MARSEC Directive, or follow the procedures set out in the MARSEC Directive for gaining approval of an equivalent security measure. COTPs may also use the AMS Committee as a mechanism for disseminating the MARSEC Directive to those with a need to know.

MARSEC Directives will be issued under an extension of the Coast Guard's existing COTP authorities regarding maritime security, found in 33 U.S.C. 1226 and 50 U.S.C. 191. In part, the implementing regulations for 50 U.S.C. 191, found at 33 CFR 6.14–1 and promulgated by Executive Order 10277, contemplate action by the Commandant that is national in scope. Specifically, these regulations authorize the Commandant to prescribe such conditions and restrictions deemed necessary under existing circumstances for the safety of waterfront facilities and vessels. Additionally, 43 U.S.C. 1333(d) authorizes the Coast Guard to establish certain requirements for OCS facilities. Moreover, MARSEC Directives are a necessary and integral part of exercising the Coast Guard's authorities in 46 U.S.C. Chapter 701, to ensure that that Chapter's security requirements are met.

The MARSEC Directives will provide specific instruction to the regulated maritime community to achieve the performance standards required by this subchapter and 46 U.S.C. Chapter 701. For example, the plans required by 46 U.S.C. 70103 are not subject to public disclosure, in accordance with 46 U.S.C. 70103(d), and contain SSI that, if disclosed, could be used to subvert or exploit the security program for vessels, facilities, OCS facilities, or ports. This could include passenger screening levels, means of monitoring restricted areas, and other requirements that may be necessary to ensure that the security plans remain viable. Like civil aviation security, these specific requirements cannot be placed in a public regulation and are better suited for issuance through a MARSEC Directive that is itself not subject to public disclosure.

Since MARSEC Directives would be issued when necessary to protect national security and to preserve the rights and obligations of the U.S. with

regarding maritime security, the Coast Guard has determined that the issuance of MARSEC Directives do not fall within the requirements of the Administrative Procedure Act by virtue of the military and foreign affairs exemption (5 U.S.C. 553(a)(1)). Furthermore, the basis for the MARSEC Directive would also constitute ''good cause'' within the meaning of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B) and (d)(3)) regarding notice and comment rulemaking and effective dates since it would be contrary to the public interest and impracticable to provide SSI relating to maritime security and methods of detection, deterrence, and response in a public forum.

Subpart D, section 101.410 lists examples of the types of control and compliance measures that a COTP may take on vessels and/or facilities within his/her AOR that are not in compliance with subchapter H. The lists of measures are not meant to be exhaustive. This section also notes that the COTP may impose one or more of these control and compliance measures on a vessel that is in compliance with subchapter H, if that vessel has called on a facility that is not in compliance, or if it has called on a port that does not maintain adequate security measures to ensure that the level of security achieved by subchapter H has not been compromised.

Section 101.415 outlines the penalty provisions that may be taken against persons for violating the provisions of this subchapter. Civil and criminal penalties may be imposed under 33 U.S.C. 1232 or 50 U.S.C. 192, as appropriate, for violations of control and compliance measures, including COTP orders and security zones. This simply restates the current law applicable under the Magnuson Act, 590 U.S.C. 191, implemented at 33 CFR part 6, and the Ports and Waterways Safety Act, 33 U.S.C. 1221 *et seq.*, implemented in part at 33 CFR parts 160 and 165. Pursuant to 46 U.S.C. 70117, civil penalties may also be assessed for non-compliance with any other requirement in this subchapter, including those imposed by a MARSEC Directive.

Finally, section 101.420 outlines the appeal rights available to persons directly affected by a decision or action taken by the COTP or the Commanding Officer of the Marine Safety Center.

Part 101—Subpart E—Other Provisions

Subpart E sets out the remaining regulations that apply to all of subchapter H that do not fit in any of the subparts discussed above. We have reserved the first section in this subpart for procedures for authorizing a Recognized Security Organization (RSO). As noted above in the discussion of comments, the Coast Guard is authorized, under SOLAS, to delegate its assessment and plan approval authority to an RSO. The Coast Guard has decided to retain this authority for the time being. We may, however, delegate some (or all) of this authority to RSOs in the future. As a result, we are reserving this section for outlining the procedures an organization will need to follow in order to qualify as an RSO in the future.

Section 101.505 describes the purpose behind a Declaration of Security (DoS). A DoS is intended to clarify the specific security responsibilities of a vessel and a facility (or another vessel) with which it will be conducting some activity. It will be used to eliminate situations where confusion leads the vessel to believe that the facility (or other vessel) will take care of certain security measures, while the facility (or other vessel) believes that the vessel will take care of the same security measure. Parts 104 through 106 of subchapter H describe in detail the who, what, where, when and how of completing a DoS for their respective regulated entities. Additionally, to ensure that vessels and facilities coordinate security during special marine events such as festivals that draw large numbers of people to the waterfront or vessels that wish to enter port with a higher MARSEC Level than what has been set for the port, we have included a provision to ensure the COTP's ability to mandate a DoS.

Section 101.510 of subpart E lists the various assessment tools that may be used to meet the risk assessment requirements in parts 103 through 106 of this subchapter. This list is provided to ensure that security assessments done to meet these requirements are consistent with other modal assessments and are sufficient enough to enable the development of security plans. We have been working with other agencies to develop assessment tools that are sensitive to a diversity of transportation modes to ensure equity of security throughout the entire National transportation system. We anticipate that eventually one security assessment tool will be mandated for all transportation modes. In the interim, the list provided in Section 101.510 enables the maritime security provisions to advance until the national transportation security assessment mandate is complete. Even when a national transportation security assessment is in place, we intend to provide a ''grandfather clause'' to those security assessments done to meet the maritime security requirements found elsewhere in today's **Federal Register**.

The Transportation Security Administration intends to publish a Notice of Proposed rulemaking with request for comment that promulgates rules in 49 CFR part 1574 to manage the access to and use of a user-friendly risk-based vulnerability assessment tool. This tool will be the result of inter-agency work, under the leadership of TSA thus far to establish a national transportation security assessment. It will be designed as a self-assessment tool for the owner or operator, and is one of the tools an owner or operator may use to meet the risk assessment requirements in parts 103, 104, 105 and 106 of subchapter H.

Section 101.515 of subpart E prescribes the minimum requirements for personal identification credentials for purposes of access control under this subchapter. As discussed in the *Discussion of Comments to Maritime Security Public Meetings* section above, these requirements are consistent with the Coast Guard's previous policy notice on maritime credentials acceptable under 33 CFR part 125.

Part 102—National Maritime Transportation Security Plan

Part 102 in subchapter H has been reserved for the National Maritime Transportation Security (NMTS) Plan that is required under 46 U.S.C. 70103a. At this time we are coordinating the implementation of the National Maritime Security Advisory Committee (NMSAC) as required in the MTSA (46 U.S.C. 70112a). While the development of this overarching plan and the establishment of the National Advisory Committee are key sustaining National Maritime Security initiatives, we do not feel their development is necessary prior to the implementation of these interim rule requirements. We believe the concepts found in the interim rules published in today's **Federal Register** represent the foundation of National Maritime Transportation Security and intend to incorporate them in the development of the NMTS plan. We will promulgate the NMTS plan and Advisory Committee charter and membership requirements under a separate notice and rulemaking in the future.

Additionally, the Aviation and Transportation Security Act (ATSA) assigns responsibility for managing the security of the nation's transportation modes to the Transportation Security Administration. In its role as the National Transportation System Security Manager, Transportation Security Administration intends to

develop a National Transportation System Security Plan (NTSSP) to define national strategy and provide tools to help manage risk across the nation's multi-modal transportation system.

The NTSSP will provide a comprehensive and systematic approach to the national transportation system's risk management. It will set the framework and establish goals for National Security Plans for each of the transportation modes.

Incorporation by Reference

The Director of the **Federal Register** has approved the material in § 101.115 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in § 101.115.

This interim rule incorporates by reference the International Ship and Port Facility Security (ISPS) Code, 2003 Edition. Specifically, we are incorporating the amendments adopted on 12 December 2002 to the Annex to The International Convention for the Safety of Life at Sea (SOLAS), 1974 and The International Code For the Security of Ships and of Port Facilities, also adopted on 12 December 2002. The material is incorporated for all of subchapter H. The interim rule titled ''Automatic Identification System; Vessel Carriage Requirement'' (USCG–2003–14757), found elsewhere in today's **Federal Register**, also incorporates material by reference.

Regulatory Assessment

This interim rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget (OMB) under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of DHS. A draft assessment is available in the docket as indicated under **ADDRESSES.**

Summary of Changes in the Cost Assessment From the Meeting Notice

In a December 30, 2002, meeting notice [67 FR 79742], the Coast Guard presented a preliminary cost assessment estimating the cost to the regulated public of implementing MTSA, the ISPS code, and complying with applicable security NVICs. We asked for comments on our estimates and have changed portions of our cost assessments for the interim rules based on those comments.

We received a wide range of comments on the preliminary assessment. In some areas, commenters believed we were overestimating costs, in other areas they believed we were understating costs, and in many instances commenters believed we had accurately accounted for costs. As a result of the comments, our cost estimates for vessels and facilities increased, while our estimates for ports remained about the same. Additionally, the summary of costs we present below includes estimates for the OCS interim rule and the AIS interim rule, which were not part of our original assessment for the meeting notice.

For vessels, we decreased the population of U.S. flag SOLAS fishing vessels from 39 to 1. We also removed domestic MODUs and domestic freight barges regulated under 46 CFR subchapter I from our assessment, as the Coast Guard is not regulating these vessels in these interim rules. We added 70 foreign vessels that make port calls in the United States but are not subject to SOLAS. We increased the cost for hand-held radios and portable vapor detectors based on information received in the comments.

In our preliminary assessment, we assumed that equipment would be replaced every 10 years. Several commenters believed that this underestimated the replacement costs for several of the pieces of equipment that we considered. Specifically, several commenters stated some equipment would be broken, lost, or stolen before the 10-year replacement. We agreed that we should increase equipment costs to account for these situations. Because the replacement cycle of equipment will vary considerably among types of equipment and its uses, we increased the annual operations and maintenance (O&M) costs to more accurately capture increased replacement and repair. In the preliminary cost estimates, we assumed that annual O&M costs would be 5 percent of the initial capital purchase cost. In the *Cost Assessment* for this rulemaking, we increased annual O&M to 10 percent of the initial purchase cost. We also changed the annual cost for Vessel Security Officers to more accurately reflect the annual costs of the mariners that will perform security duties aboard their vessels. The net effect of these changes was to increase initial and annual costs for vessels.

Based on comments, we found there was some confusion about labor costs. Labor costs presented in our assessment are not the hourly wage paid to the employee; rather, they are the fully loaded cost to the company of carrying the position and providing employee benefits. Additionally, there was some confusion about our estimates for Vessel Security Assessments and Vessel Security Plans. We believe that most companies will choose to develop one overarching assessment or plan, and then take that overarching document and add documentation specific to each vessel in their fleets. The ''incremental'' costs that we presented for each vessel type in the preliminary assessment represented the cost to add the vessel to the overarching company assessment or plan. Thus, in our preliminary cost assessment it may have seemed that it cost only a few dollars to develop a Vessel Security Assessment or Vessel Security Plan for a particular vessel. In fact, we believe that Vessel Security Assessments and Vessel Security Plans will represent a substantial initial cost, but adding vessels to an overarching plan will be a smaller, incremental cost. For annual updates to Vessel Security Assessments and Vessel Security Plans, we have increased the time required to amend these documents from 1 minute per vessel (0.02 hours) to 15 minutes per vessel (0.25 hours). The net effect of this change was to increase our annual costs slightly.

For facilities, we added certain fleeting areas to our population based on our assessment of the risk these areas pose. We also increased equipment costs for most items for Group A facilities in response to several comments. (We recognize that not all facilities will incur the same cost for personnel salaries, hire the same number of security guards, or spend the same amount of time drafting Facility Security Assessments and Facility Security Plans. For the purpose of this assessment, we have divided the facility population in two groups. One group is composed of one third of all facilities and will have more security duties, hire more guards, and spend more time drafting Facility Security Assessments and Facility Security Plans than the other group that is composed of the remaining two-thirds of the total population. Facilities in the first group are addressed in this assessment as ''A'' and facilities in the second group as ''B.'') As in our vessel assessment, we increased annual O&M costs from 5 percent of purchase cost to 10 percent of purchase cost to more accurately capture annual repair and replacement. We received several comments on the cost estimated for security guards. Commenters stated the $40,000 annual cost presented was either too low, too high, or accurate. We believe these diverging opinions could be explained by the cost of living and the

corresponding wage variation among different regions of the country. The costs presented in the assessment are national averages, and we fully expect different regions of the country to pay different wage rates. However, we do believe that the $40,000 per year estimated per security guard may be lower than what could be expected. Consequently, we have revised our estimate from $40,000 per year to $50,000 per year per security guard. Finally, we included the cost of making Declaration of Security (DoS) annual. The net effect of these changes was to increase initial and annual costs for facilities.

A detailed summary of the changes made from the December 2002 meeting notice and the Cost Assessment for the interim rules for security is presented in Table 6.

TABLE 6.—SUMMARY OF CHANGES MADE TO COST ASSESSMENT

Item	December 2002 meeting notice	Cost assessment for IR	Comment
Population of fishing vessels	39 vessels	1 vessel	Revised based on new information from commenter.
Population of domestic MODUs	159 vessels	0 vessels	IR will not be applicable to domestic MODUs.
Population of domestic freight barges.	262 vessels	0 vessels	IR will not be applicable to domestic freight barges regulated under Subchapter I.
Population of foreign non-SOLAS vessels.	0 vessels	70 vessels	IR will be applicable to these vessels regulated under Subchapter I.
Hand-held radio (vessels)	$200 per item	$500 per item	Revised based on comment.
Portable vapor detector (vessels)	$8,000 per item	$15,000 per item	Revised based on comment.
O&M costs for equipment (vessels)	5% of purchase cost	10% of purchase cost	Revised based on comment.
Annual incremental costs to amend VSAs and VSPs.	$0.02 per vessel per year	$25 per vessel per year	Revised based on comment.
Vessel Security Officers	$5,000 per vessel per year, non-towing vessels only.	$8,500 per non-towing vessel per year; $4,250 per towing vessel per year.	Revised based on comment.
Fleeting areas	0 areas	600 areas	Population added to IR.
Communications system (group A facilities).	$300,000 per facility	$400,000 per facility	Revised based on comment.
Gates (group A facilities)	$100,000 per facility	$200,000 per facility	Revised based on comment.
CCTVs (group A facilities)	$130,000 per facility	$260,000 per facility	Revised based on comment.
Lights (group A facilities)	$200,000 per facility	$400,000 per facility	Revised based on comment.
Fencing (group A facilities)	$500,000 per facility	$750,000 per facility	Revised based on comment.
Hand-held radio (group A and B facilities).	$200 per item	$500 per item	Revised based on comment.
O&M costs for equipment (facilities).	5% of purchase cost	10% of purchase cost	Revised based on comment.
Security guard	$40,000 per year	$50,000 per year	Revised based on comment.
Declaration of Security	No cost estimated	Cost estimated	Added requirement to IR.

Cost Assessment Summary

The following summary presents the estimated costs of complying with the interim rules on Vessel Security, Facility Security, OCS Facility Security, Area Maritime Security, and AIS, which are published elsewhere in today's **Federal Register**.

For the purposes of good business practice, or to comply with regulations promulgated by other Federal and State agencies, many companies already have spent a substantial amount of money and resources to upgrade and improve security. The costs shown in this summary do not include the security measures these companies have already taken to enhance security.

We realize that every company engaged in maritime commerce would not implement the interim rules exactly as presented in this assessment. Depending on each company's choices, some companies could spend much less than what is estimated herein, while others could spend significantly more. In general, we assume that each company would implement the interim rules based on the type of vessels or facilities it owns or operates, whether it engages in international or domestic trade, and the ports where it operates.

This assessment presents the estimated cost if vessels, facilities, OCS facilities, and ports are operating at MARSEC Level 1, the current level of operations since the events of September 11, 2001. We also estimate the costs for operating for a brief period at MARSEC Level 2, an elevated level of security. We also discuss the potential effects of operating at MARSEC Level 3, the highest level of maritime security.

We do not anticipate that implementing the interim rules will require additional manning aboard vessels or OCS facilities; existing personnel can assume the duties envisioned. For facilities, we anticipate additional personnel in the form of security guards that can be hired through contracting with a private firm specializing in security.

Based on our assessment, the first-year cost of implementing the interim rules is approximately $1.507 billion. Following initial implementation, the annual cost is approximately $884 million, with costs of present value (PV) $7.348 billion over the next 10 years (2003–2012, 7 percent discount rate). Estimated costs are as follows.

Vessel Security

Implementing the interim rule will affect about 10,300 U.S. flag SOLAS, domestic (non-SOLAS), and foreign non-SOLAS vessels. The first-year cost of purchasing and installing equipment, hiring security officers, and preparing paperwork is approximately $218 million. Following initial implementation, the annual cost is approximately $176 million. Over the

next 10 years, the cost would be PV $1.368 billion.

Facility Security

Implementing the interim rule will affect about 5,000 facilities. The first-year cost of purchasing and installing equipment, hiring security officers, and preparing paperwork is an estimated $1.125 billion. Following initial implementation, the annual cost is approximately $656 million. Over the next 10 years, the cost would be PV $5.399 billion.

OCS Facility Security

Implementing the interim rule will affect about 40 OCS facilities under U.S. jurisdiction. The first-year cost of purchasing equipment and preparing paperwork is an estimated $3 million. Following initial implementation, the annual cost is approximately $5 million. Over the next 10 years, the cost would be PV $37 million.

Port Security

Implementing the interim rule will affect about 47 maritime areas containing 361 ports. The initial cost of the startup period (June 2003–December 2003) is estimated to be $120 million. Following the startup period, the first year of implementation (2004) is estimated to be $106 million. After the first year of implementation, the annual cost is approximately $46 million. Over the next 10 years, the cost would be PV $477 million.

Automatic Identification System (AIS)

Implementing the interim rule will affect about 4,600 U.S. flag SOLAS and domestic (non-SOLAS) vessels in VTS areas. The first-year cost of purchasing equipment and training for U.S. vessels (SOLAS and domestic) is approximately $40 million. Following initial implementation, the annual cost for U.S. vessels is approximately $1 million. Over the next 10 years, the cost for these vessels would be PV $66 million (with replacement of the units occurring 8 years after installation).

An additional 70 foreign flag, non-SOLAS vessels will also be affected. The first-year cost of purchasing and installing equipment and training personnel for these vessels is approximately $0.6 million. Following initial implementation, the annual cost is less than $0.1 million. Over the next 10 years, the cost for these vessels would be PV $1 million.

Maritime Security Levels 2 and 3

MARSEC Level 2 is a heightened threat of a security incident, and intelligence indicates that terrorists are likely to be active within a specific target or class of targets. MARSEC Level 3 is a probable or imminent threat of a security incident. MARSEC Levels 2 and 3 costs are not included in the above summaries because of the uncertainty that arises from the unknown frequency of elevation of the MARSEC Level and the unknown duration of the elevation.

The costs to implement MARSEC Levels 2 and 3 security measures in response to these increased threats do not include the costs of security measures and resources needed to meet MARSEC Level 1 (summarized above) and will vary depending on the type of security measures required to counter the specific nature of higher levels of threat. Such measures could include additional personnel or assigning additional responsibilities to current personnel for a limited period of time.

We did not consider capital improvements, such as building a fence, to be true MARSEC Levels 2 or 3 costs. The nature of the response to MARSEC Levels 2 and 3 is intended to be a quick surge of resources to counter an increased threat level. Capital improvements generally take time to plan and implement and could not be in place rapidly. Capital improvement costs are estimated under MARSEC Level 1 costs.

We did not calculate MARSEC Level 2 cost for the AMS because this will be primarily a cost to the Coast Guard for administering the heightened MARSEC Level in port and maritime areas.

In order to estimate a cost for MARSEC Level 2, we made assumptions about the length of time the nation's ports can be expected to operate at the heightened security level. For the purpose of this assessment only, we estimate costs to the nation's ports elevating to MARSEC Level 2 twice a year, for 3 weeks each time, for a total period of 6 weeks at MARSEC Level 2. Again, this estimate of 6 weeks annually at MARSEC Level 2 is for the purposes of illustrating the order of magnitude of cost we can expect. Our estimate should not be interpreted as the Coast Guard's official position on how often the nation's ports will operate at MARSEC Level 2.

We estimate that there are Vessel Security Officers aboard all U.S. flag SOLAS vessels and most domestic vessels. We estimate that there will also be key crewmembers that can assist with security duties during MARSEC Level 2 aboard these vessels. We assume that both Vessel Security Officers and key crewmembers will work 12 hours a day (8 hours of regular time, 4 hours of overtime) during the 42 days that the ports are at MARSEC Level 2. We then estimate daily and overtime rates for Vessel Security Officers and key crewmembers. Given these assumptions, we estimate that elevating the security level to MARSEC Level 2 twice a year each for 21 days will cost vessel owners and operators approximately $235 million annually.

We estimate that every regulated facility will have a Facility Security Officer assigned to it. We also estimate that there will also be a key person that can assist with security duties during MARSEC Level 2 at each facility. We assume that both Facility Security Officers and key personnel will work 12 hours a day (8 hours of regular time, 4 hours of overtime). For facilities that have to acquire security personnel for MARSEC Level 1, we assumed that during MARSEC Level 2 the number security guards would double for this limited time. For the facilities for which we did not assume any additional guards at MARSEC Level 1, we assumed that during MARSEC Level 2 these would have to acquire a minimal number of security guards. Given these assumptions, we estimate that elevating the security level to MARSEC Level 2 twice a year each for 21 days will cost facility owners and operators approximately $424 million annually.

We estimate that elevating the security level to MARSEC Level 2 twice a year each for 21 days will cost the regulated OCS facility owners and operators approximately $4 million annually. This cost is primarily due to increased cost for OCS Facility Security Officers and available key security personnel.

Other costs that we did not attempt to quantify include possible operational restrictions such as limiting cargo operations to daylight hours or greatly limiting access to facilities or vessels.

MARSEC Level 3 will involve significant restriction of maritime operations that could result in the temporary closure of individual facilities, ports, and waterways either in a region of the U.S. or the entire nation. Depending on the nature of the specific threat, this highest level of maritime security may have a considerable impact on the stakeholders in the affected ports or maritime areas. The ability to estimate the costs to business and government for even a short period at MARSEC Level 3 is virtually impossible with any level of accuracy or analytical confidence due to the infinite range of threats and scenarios that could trigger MARSEC Level 3.

The length and the duration of the increased security level to MARSEC Level 3 will be entirely dependent on the intelligence received and the scope

of transportation security incidents or disasters that have already occurred or are imminent. While we can reasonably expect MARSEC Level 3 to increase the direct costs to businesses attributable to increased personnel or modified operations, we believe the indirect costs to society of the ''ripple effects'' associated with sustained port closures would greatly outweigh the direct costs to individual businesses.

The U.S. Marine Transportation System

The cost of MARSEC Level 3 can best be appreciated by the benefits of the U.S. MTS to the economy. Maritime commerce is the lifeblood of the modern U.S. trade-based economy, touching virtually every sector of our daily business and personal activities.

Annually, the U.S. MTS contributes significant benefits to the economy. More than 95 percent of all overseas trade that enters or exits this country moves by ship, including 9 million barrels of oil a day that heats homes and businesses and fuels our automobiles.[1] In addition, over $738 billion of goods are transported annually through U.S. ports and waterways.[2]

Other benefits include the water transportation and shipping industry that generates over $24 billion in revenue and provides nearly $3 billion of payrolls.[3] The annual economic impact of cruise lines, passengers, and their suppliers is more than $11.6 billion in revenue and 176,000 in jobs for the U.S. economy.[4] Our national defense is also dependent on the MTS. Approximately 90 percent of all equipment and supplies for Desert Storm were shipped from strategic ports via our inland and coastal waterways.[5]

The Ripple Effect of Port Closures on the U.S. Economy

We could expect not just the immediate effects of port and waterway closures on waterborne commerce as described above, but also serious ''ripple effects'' for the entire U.S. economy that could last for months or more, including delayed commerce, decreased productivity, price increases, increased unemployment, unstable financial markets worldwide, and economic recession.

To appreciate the impact, we can examine one sector of the economy: agriculture. Many farm exports are just-in-time commodities, such as cotton shipped to Japan, South Korea, Indonesia, and Taiwan. Asian textile mills receive cotton on a just-in-time basis because these mills do not have warehousing capabilities. A port shutdown may cause U.S. cotton wholesalers to lose markets, as textile producers find suppliers from other nations. U.S. wholesalers would lose sales until shipping is restored.

Another example is the auto industry. A recent shutdown of West Coast ports due to a labor dispute caused an automobile manufacturer to delay production because it was not receiving parts to make its cars. We can see that a port shutdown can create a domino effect, from stalling the distribution of materials to causing stoppages and delays in production to triggering job losses, higher consumer prices, and limited selection.

The macroeconomic effects of the recent shutdown of West Coast ports, while not in response to a security threat, are a good example of the economic costs that we could experience when a threat would necessitate broad-based port closures. The cost estimates of this 11-day interruption in cargo flow and closure of 29 West Coast ports have ranged between $140 million to $2 billion a day, but are obviously high enough to cause significant losses to the U.S. economy.[6]

Another proxy for the estimated costs to society of nationwide port closures and the consequential impact on the U.S. supply chain can be seen by a recent war game played by businesses and government agencies.[7] In that recent war game, a terrorist threat caused 2 major ports to close for 3 days, and then caused a nationwide port closure for an additional 9 days. This closure spanned only 12 days, but resulted in a delay of approximately 3 months to clear the resulting containerized cargo backlog. The economic costs of the closings attributable to manufacturing slowdowns and halts in production, lost sales, and spoilage was estimated at approximately 58 billion. The simulation gauged how participants would respond to an attack and the ensuing economic consequences. Furthermore, a well-coordinated direct attack of multiple U.S. ports could shutdown the world economy by effectively halting international trade flows to and from the U.S. market—the largest market for goods and services in the world.

We believe that the cost to the national economy of a port shutdown due to extreme security threats, while not insignificant, would be relatively small if it only persisted for a few days and involved very few ports. However, if the interruption in cargo flows would persist much longer than the 11-day shutdown recently experienced on the West Coast, the economic loss is estimated to geometrically increase (double) every additional 10 days the ports were closed.[8] At a certain point, companies would start declaring bankruptcies, people would be laid off indefinitely, and the prices of goods would increase. This effect would continue and intensify until alternate economic activities took place, such as the unemployed finding less desirable jobs or companies finding secondary lines of operations and suppliers. Regardless, the economic hardship suffered by industry, labor, and the loss of public welfare due to a sustained nationwide port shutdown may have as significant an effect on the U.S. as the act of terror itself.

Benefit Assessment

Why We Measured Benefits Using the N–RAT

A team of experts considered the benefits of various security measures that will be implemented and used the N–RAT to estimate the reduction in risk associated with these security measures. Before the results of this assessment are discussed, it is helpful to understand why the Coast Guard chose this methodology to measure regulatory benefits.

Traditionally, the Coast Guard's regulations intended to decrease marine-related casualties, which in turn reduced number of injuries, fatalities, and pollution (primarily oil) spilled into the marine environment. These sorts of safety and environmental benefits could be estimated with some degree of accuracy; the well-documented and detailed history of maritime incidents provides a solid foundation to estimate the ''costs to society'' that could be

[1] See MTS Fact Sheet available at *www.dot.gov/mts/fact_sheet.htm.*

[2] See 2000 Exports and Imports by U.S. Customs District and Port available at *www.marad.dot.gov/statististcs/usfwts/.*

[3] U.S. Census Bureau, 1997 Economic Census, Transportation and Warehousing-Subject Series.

[4] *See* footnote 1.

[5] *See* footnote 1.

[6] See Lost Earnings Due to West Coast Port Shutdown—Preliminary Estimate, Patrick Anderson, October 7, 2002, available at *http://www.AndersonEconomicGroup.com*; An Assessment of the Impact of West Coast Container Operations and the Potential Impacts of an Interruption of Port Operations, 2000, Martin Associates, October 23, 2001, available from the Pacific Maritime Association. These two studies were widely quoted by most U.S. news services including Sam Zuckerman, San Francisco Chronicle, October 2002.

[7] The war game simulation was designed and sponsored by Booz Allen Hamilton and The Conference Board, details available at *http://www.boozallen.com/.*

[8] *See* Anderson footnote 6.

avoided through enhanced requirements. By reviewing incident trends over time and the costs to society imposed by these incidents, the Coast Guard could determine if changes to the status quo were justified.

Consequently, our environmental protection and marine safety regulations were generally accompanied by estimates of reduced injuries, fatalities, and pollution attributable to a specific regulation. For example, the recently promulgated Final Rule titled *Tank Level or Pressure Monitoring Devices* (published September 17, 2002) [67 FR 58515] estimated a benefit to society of approximately 900 barrels of oil not spilled into the environment over the period of assessment, though the regulation was not expected to prevent injuries or fatalities.

Estimating the benefits of new security requirements, however, is more challenging. Incident causation probabilities, based on historic trends and analysis, can be estimated in a manner that terrorist activities cannot. Currently, we believe it is virtually impossible to estimate benefits for security regulations in the way benefits are estimated for non-security regulations. We do not believe we can state with any degree of certainty that a specific security regulation would save a number or a range of fatalities, as no viable baseline exists from which to project these benefits. We realize though, that the burden on the regulated public of bearing the costs of new security regulations will be high, and we must balance the benefits of these regulations with their associated costs. We must also consider the consequences of taking no action.

We do not assume the benefits of the interim rules automatically offset their costs simply because these rules are security related. By using RBDM, however, we have measured the relative risk reduction resulting from these security measures, permitting us to estimate the ''value'' these regulations will have. In considering the applicability of the interim rules, we have strived to apply requirements to those maritime entities that pose the greatest risk, and the N–RAT was an important and powerful tool in our Risk-Based Decision Making process. We believe that through better-informed judgments that came, in part, from the results of the N–RAT, we are appropriately balancing the benefits of the interim rules with their costs.

Results of the N–RAT Based Assessment

The expert review and scoring process was complex and challenging. The fundamental principles of the N–RAT, however, are relatively simple to understand. For each applicable entity in the interim rules, we assigned an annual ''baseline'' risk score. We then considered the requirements of the six interim rules described herein and assigned an annual post-regulation risk score. The benefits attributable to part 101—General Provisions—were not considered separately because it is an overarching section for all the subparts. The benefits for part 101 are represented in each of the remaining security subparts. The difference between the baseline risk score and the post-regulation risk score is the quantified benefit of the remaining five interim rules.

Besides the complex procedure to assign risk scores to the applicable maritime entities, we were faced with the further complication that rules will have multiple benefits; thus, we have the potential to double-count the risk reduced. For example, if the owner or operator of a petroleum tanker enhances his vessel's security, this will also benefit the receiving facility where this vessel transfers its cargo. The reverse is also true: If the owner or operator of the facility enhances his facility's security, this will benefit the vessels that arrive there. We recognize that the interim rules are a ''family'' of rulemakings that will reinforce and support one another in their implementation. We must ensure, however, that risk reduction that is credited in one rulemaking is not also credited in another.

To avoid double-counting risk reduced, we first determined the ''universe'' of total benefits of all security measures recently implemented, about to be implemented, or planned for future rulemakings. Examples of other rules that were considered in the ''universal'' risk points are the Coast Guard's Notice of Arrival (96-Hour Rule), Custom's rulemaking regarding cargo manifests (24-Hour Rule), and a future rulemaking for transportation security cards. We then apportioned the total benefits to specific regulations. By approaching the benefits assessment in this manner, we were able to address the limitations of the N–RAT. The threat, vulnerability, and consequence scores are whole numbers between 1 and 5. The N–RAT did not allow us to score a relatively minor security initiative only 0.1 or 0.5 of a risk point, even though the initiative contributes to risk reduction. When we considered the rules as a group, however, security initiatives that could not be scored individually due to the limited granularity of the N–RAT can be scored when considered with the rest of the rules because of their cumulative risk reduction benefits.

Once we determined the total risk reduction benefits of the all the applicable rules, we ''apportioned'' the total risk points back to each individual regulation. We avoided double-counting benefits among the rulemakings as each risk point was counted only once. While there was subjectivity in this apportionment of risk points back to the individual rulemakings, we believe this methodology's strength of allowing a systematic quantification of risk reduction for each regulation outweighs its subjectivity.

Results of the N–RAT

We determined annual risk points reduced for each of the six interim rules using the N–RAT. Table 7 presents the annual risk points reduced by the rules. As shown, the interim rule for vessel security plans reduces the most risk points annually. The interim rule for AIS reduces the least.

TABLE 7.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES

Maritime entity	Annual risk points reduced by rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
Vessels	778,633	3,385	3,385	3,385	1,448
Facilities	2,025	469,686	.....	2,025	.....
OCS Facilities	41	.....	9,903	.....	.....
Port Areas	587	587	.....	129,792	105
Total	781,285	473,659	13,288	135,202	1,553

Once we determined the annual risk points reduced, we discounted these estimates to their PV (7 percent discount rate, 2003–2012) so that they could be compared to the costs. We presented the cost effectiveness, or dollars per risk point reduced, in two ways: First, we compared first-year cost to first-year benefit, because first-year cost is the highest in our assessment as companies develop security plans and purchase equipment. Second, we compared the 10-year PV cost to the 10-year PV benefit. The results of our assessment are presented in Table 8.

TABLE 8.—FIRST-YEAR AND 10-YEAR PV COST AND BENEFIT OF THE INTERIM RULES

Item	Interim rule				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS [1]
First-Year Cost (millions)	$218	$1,125	$3	$120	$41
First-Year Benefit	781,285	473,659	13,288	135,202	1,553
First-Year Cost Effectiveness ($/Risk Point Reduced)	$279	$2,375	$205	$890	$26,391
10-Year PV Cost (millions)	$1,368	$5,399	$37	$477	$42
10-Year PV Benefit	5,871,540	3,559,655	99,863	1,016,074	11,671
10-Year PV Cost Effectiveness ($/Risk Point Reduced)	$233	$1,517	$368	$469	$3,624

[1] Cost less monetized safety benefit.

As shown, the rulemaking for vessel security plans is the most cost effective. This is due to the nature of the security measures we expect vessels will have to take to ensure compliance as well as the level of risk that is reduced by those measures. Facility security plans are less cost effective because they incur higher costs for capital purchases (such as gates and fences) and require more labor (such as security guards) to ensure security. OCS Facility and AMS Plans are almost equally cost effective; the entities these rules cover do not incur the highest expenses for capital equipment, but on this relative scale, they do not receive higher risk reduction in the N–RAT, either. The AIS rulemaking is the least cost effective, though it is important to remember that AIS provides increased maritime domain awareness and navigation safety, which is not robustly captured using the N–RAT.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether these interim rules 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. These interim rules do not require a general notice of proposed rulemaking and, therefore, are exempt from the requirements of the Regulatory Flexibility Act.

Although these interim rules are exempt, we have reviewed each rule for potential economic impacts on small entities. We found that the facilities, vessels, and AIS rules may have a significant impact on a substantial number of small entities. However, we did certify no significant economic impact on a substantial number of small entities for the Area Maritime Security and OCS facility security rules. Additional information on small entity impacts is available in the *Regulatory Assessment* or *Cost Assessment* for each interim rule in their associated docket, where indicated in the **ADDRESSES** section for each interim rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding these rules so that they can better evaluate the effects on them and participate in the rulemaking. If these rules affect your small business, organization, or governmental jurisdiction and you have questions concerning their provisions or options for compliance, please consult CDR Suzanne Englebert, G-M–1 by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.*

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

Collection of Information

The interim rules published in today's **Federal Register** contain collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The rules modify two existing OMB-approved collections—1625–0100 [formerly 2115–0557] and 1625–0077 [formerly 2115–0622]. Details of the revision to 1625–0100 can be found in the ''Vessel Security'' [USCG–2003–14749] interim rule published elsewhere in today's **Federal Register**. A summary of the revised collection 1625–0077 follows.

TITLE: Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077.

Summary of the Collection of Information: The Coast Guard requires security plans and communication procedures for U.S. ports and maritime areas as detailed in the interim rules. These rules provide a framework to ensure adequate security planning, drilling, and communication procedures for Ports, Vessels, Facilities, and OCS Facilities.

Need for Information: The primary need for information would be to determine if stakeholders are in compliance with security standards.

Proposed Use of Information: This information can help to determine appropriate security measures for the affected population. This information also can help determine, in the case of a transportation security incident, whether failure to meet these regulations contributed to the transportation security incident.

Description of the Respondents: This rule will affect owners, operators, and personnel operating in the U.S. Marine Transportation System. The respondents are regulated public and private stakeholders as detailed in the interim rules.

Number of Respondents: 16,607 total respondents for the interim rules.

Frequency of Response: Varies as specified in each interim rule. Security assessments and security plans are submitted for approval initially, and reviewed annually. After the first year, drills generally occur at various schedules. All frequencies are at the discretion of the COTP. Depending on the port or maritime area, there may be additional requirements and reporting frequencies.

Burden of Response: Varies per each type of regulated population in the interim rules.

Estimate of Total Annual Burden: The existing OMB-approved collection total annual burden is 1,811 hours. These interim rules are a program change that will increase the total annual burden. The new estimated total collection burden is indicated in the table below.

TABLE 9.—SUMMARY OF INITIAL AND ANNUAL BURDEN HOURS AND COSTS

	Burden (hours)	
	Initial	Annual
Port Security (AMS)	1,203,200	488,800
Vessel Security	135,269	11,700
Facility Security	528,240	608,187
OCS Facility Security	3,200	160
Subtotal	1,869,909	1,108,847
Pre 9/11 Security	*3,549	3,549
Total	1,873,458	1,112,396

*As pre-9/11/01 security requirements are existing regulations, they are included in both initial and annual burden calculations. (Note burden revised from year 2000 Estimate).

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of the interim rules to the OMB for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for ''emergency processing'' of our request. We received OMB approval for these collections of information on June 16, 2003. They are valid until December 31, 2003.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES,** by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. We received OMB approval for these collections of information on June 16, 2003. They are valid until December 31, 2003.

Federalism

Executive Order 13132 requires USCG to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under the Executive Order, USCG may construe a Federal statute to preempt State law only where, among other things, the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.

This action has been analyzed in accordance with the principles and criteria in the Executive Order, and it has been determined that this interim rule does have Federalism implications or a substantial direct effect on the States. This rulemaking requires those States which own or operate vessels or facilities that may be involved in a transportation security incident to conduct vulnerability assessments of their vessels and facilities and to develop security plans for their protection. These plans must contain measures that will be implemented at each of the three MARSEC Levels, and must be reviewed and approved by the Coast Guard.

Additionally, the Coast Guard has reviewed the MTSA with a view to whether we may construe it as non-preemptive of State authority over the same subject matter. We have determined that it would be inconsistent with the federalism principles stated in the Executive Order to construe the MTSA as not preempting State regulations which conflict with the regulations in this rulemaking. This is because owners or operators of facilities and vessels that are subject to the requirements for conducting vulnerability assessments, planning to secure their facilities and vessels against threats revealed by those assessments and complying with the standards, both performance and specific construction, design, equipment and operating requirements, must have one uniform, national standard which they must meet. Vessels and shipping companies, particularly, would be confronted with an unreasonable burden if they had to comply with varying requirements as they moved from State to State. Therefore, we believe that the federalism principles enunciated by the Supreme Court in *U.S.* v. *Locke,* 529 U.S. 89 (2000) regarding field preemption of certain State vessel safety, equipment and operating requirements extends equally to this rulemaking, especially regarding the longstanding history of significant Coast Guard maritime security regulation and control of vessels for security purposes. But, the same considerations apply to facilities, at least insofar as a State law or regulation applicable to the same subject for the purpose of protecting the security of the facility would conflict with a federal regulation, *i.e.* it would either actually conflict or would frustrate an over-riding federal need for uniformity.

Finally, it is important to note that the regulations implemented by this rulemaking bear on national and international commerce where there is no constitutional presumption of concurrent State regulation. Many aspects of these regulations are based on the U.S. international treaty obligations regarding vessel and port facility security contained in the International Convention for the SOLAS, 1974 and the complementary ISPS Code. These international obligations reinforce the need for uniformity regarding maritime commerce.

Notwithstanding the foregoing preemption determinations and findings, the Coast Guard has consulted extensively with appropriate State officials, as well as private stakeholders during the development of this rule. Specifically, we have held seven public meetings across the country with invitation letters to all State homeland security representatives. Many State representatives attended these meetings and submitted comments to the public notice docket that we have considered for these interim rules. The State

comments ranged from State Boating Law Administrators concerns about recreational boating impacts and security for smaller marinas to State security representatives voicing concern about alignment with their State maritime security requirements. We also presented the SOLAS Amendments and ISPS Code, parts A and B, in the public notice and requested comments from the State homeland security advisors at a National Governors Association meeting on March 14, 2003. We encourage States to send in comments specifically on this Federalism analysis.

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. This rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the U.S. (2 U.S.C. 1503(5)).

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial disproportionate 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. We would appreciate any comments, however, if you disagree with this conclusion.

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. Although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Additionally, the Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

This rule has a positive effect on the supply, distribution, and use of energy. The rule provides for security assessments, plans, procedures, and standards, which will prove beneficial for the supply, distribution, and use of energy at increased levels of maritime security.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a), (34)(c), (34)(d), and (34)(e) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION.**

This final rule concerns security assessments, plans, training, security positions, and organizations along with vessel equipment requirements that will contribute to a higher level of marine safety and security for U.S. ports. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION.**

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this rule will be done in conjunction with appropriate State coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this regulation, and have determined that it would likely create obstacles to the foreign commerce of the U.S.. However, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the security of the U.S., any obstacles created by the regulation are not considered unnecessary obstacles.

List of Subjects

33 CFR Part 101

Facilities, Harbors, Incorporation by reference, Maritime security, Ports, Security assessments, Security plans, Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 102

Maritime security.

■ For the reasons discussed in the preamble, the Coast Guard is adding subchapter H consisting of part 101 and reserved part 102 to 33 CFR chapter I to read as follows:

SUBCHAPTER H—MARITIME SECURITY

PART 101—GENERAL PROVISIONS

Subpart A—General

Sec.

101.100 Purpose.
101.105 Definitions.
101.110 Applicability.
101.115 Incorporation by reference.
101.120 Alternatives.
101.125 Approved Alternative Security Programs. [Reserved]
101.130 Equivalent security measures.

Subpart B—Maritime Security (MARSEC) Levels

101.200 MARSEC Levels.
101.205 Department of Homeland Security alignment.

Subpart C—Communication (Port-Facility-Vessel)

101.300 Preparedness communications.
101.305 Reporting.
101.310 Additional communication devices.

Subpart D—Control Measures for Security

101.400 Enforcement.
101.405 Maritime Security (MARSEC) Directives.
101.410 Control and Compliance Measures.
101.415 Penalties.
101.420 Right to appeal.

Subpart E—Other Provisions

101.500 Procedures for authorizing a Recognized Security Organization (RSO). [RESERVED]
101.505 Declaration of Security (DoS).
101.510 Assessment Tools.
101.515 Personal Identification.

Authority: 33 U.S.C. 1231, 1226; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; E.O. 12656, 3 CFR 1988 Comp. p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.

PART 101—GENERAL PROVISIONS

Subpart A—General

§ 101.100 Purpose.

(a) The purpose of this part is:

(1) To implement portions of the maritime security regime required by the Maritime Transportation Security Act of 2002, as codified in 46 U.S.C. Chapter 701;

(2) To align, where appropriate, the requirements of domestic maritime security regulations with the international maritime security standards in the International Convention for the Safety of Life at Sea, 1974 (SOLAS Chapter XI–2) and the International Code for the Security of Ships and of Port Facilities, parts A and B, adopted on 12 December 2002; and

(3) To ensure security arrangements are as compatible as possible for vessels trading internationally.

(b) For those maritime elements of the national transportation system where international standards do not directly apply, the requirements in this subchapter emphasize cooperation and coordination with local port community stakeholders, and are based on existing domestic standards, as well as established industry security practices.

§ 101.105 Definitions.

Unless otherwise specified, as used in this subchapter:

Alternative Security Program means a third-party or industry organization developed standard that the Commandant has determined provides an equivalent level of security to that established by this subchapter.

Area Commander means the U.S. Coast Guard officer designated by the Commandant to command a Coast Guard Area as described in 33 CFR part 3.

Area Maritime Security (AMS) Assessment means an analysis that examines and evaluates the infrastructure and operations of a port taking into account possible threats, vulnerabilities, and existing protective measures, procedures and operations.

Area Maritime Security (AMS) Committee means the committee established pursuant to 46 U.S.C. 70112(a)(2)(A). This committee can be the Port Security Committee established pursuant to Navigation and Vessel Inspection Circular (NVIC) 09–02, available from the cognizant Captain of the Port (COTP) or at *http://www.uscg.mil/hq/g-m/nvic.*

Area Maritime Security (AMS) Plan means the plan developed pursuant to 46 U.S.C. 70103(b). This plan may be the Port Security plan developed pursuant to NVIC 09–02 provided it meets the requirements of part 103 of this subchapter.

Area of Responsibility (AOR) means a Coast Guard area, district, marine inspection zone or COTP zone described in 33 CFR part 3.

Audit means an evaluation of a security assessment or security plan performed by an owner or operator, the owner or operator's designee, or an approved third-party, intended to identify deficiencies, non-conformities and/or inadequacies that would render the assessment or plan insufficient.

Barge means a non-self-propelled vessel (46 CFR 24.10–1).

Barge fleeting facility means a commercial area, permitted by the Army Corps of Engineers, as provided in 33 CFR part 322, the purpose of which is for the making up, breaking down, or staging of barge tows.

Bulk or *in bulk* means a commodity that is loaded or carried on board a vessel without containers or labels, and that is received and handled without mark or count.

Bunkers means a vessel's fuel supply.

Captain of the Port (COTP) means the local officer exercising authority for the COTP zones described in 33 CFR part 3. The COTP is the Federal Maritime Security Coordinator described in 46 U.S.C. 70103(a)(2)(G) and also the Port Facility Security Officer as described in the ISPS Code, part A.

Cargo means any goods, wares, or merchandise carried, or to be carried, for consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel, facility, or OCS facility.

Certain Dangerous Cargo (CDC) means the same as defined in 33 CFR 160.203.

Commandant means the Commandant of the U.S. Coast Guard.

Company means any person or entity that owns any facility, vessel, or OCS facility subject to the requirements of this subchapter, or has assumed the responsibility for operation of any facility, vessel, or OCS facility subject to the requirements of this subchapter, including the duties and responsibilities imposed by this subchapter.

Company Security Officer (CSO) means the person designated by the Company as responsible for the security of the vessel or OSC facility, including implementation and maintenance of the vessel or OSC facility security plan, and for liaison with their respective vessel or facility security officer and the COTP.

Contracting Government means any government of a nation that is a signatory to SOLAS, other than the U.S.

Cruise ship means any vessel over 100 gross register tons, carrying more than 12 passengers for hire which makes voyages lasting more than 24 hours, of which any part is on the high seas. Passengers from cruise ships are embarked or disembarked in the U.S. or its territories. Cruise ships do not include ferries that hold Coast Guard Certificates of Inspection endorsed for ''Lakes, Bays, and Sounds'', that transit international waters for only short periods of time on frequent schedules.

Dangerous substances or devices means any material, substance, or item that may cause damage or injury to any person, vessel, facility, harbor, port, or waters subject to the jurisdiction of the U.S. and that:

(1) Is unlawful to possess under applicable Federal, State, or local law;

(2) That has not been approved for entry onto the vessel, facility, or OCS facility by the owner or operator of the vessel, facility, or OCS facility; or

(3) Has not been approved for entry onto a public area or property in a port by the government or property management official with jurisdictional responsibility of that area.

Declaration of Security (DoS) means an agreement executed between the responsible Vessel and Facility Security Officer, or between Vessel Security Officers in the case of a vessel-to-vessel interface, that provides a means for ensuring that all shared security concerns are properly addressed and security will remain in place throughout the time a vessel is moored to the facility or for the duration of the vessel-to-vessel interface, respectively.

District Commander means the U.S. Coast Guard officer designated by the Commandant to command a Coast Guard District described in 33 CFR part 3.

Drill means a training event that tests at least one component of the AMS, vessel, or facility security plan and is used to maintain a high level of security readiness.

Exercise means a comprehensive training event that involves several of the functional elements of the AMS, vessel, or facility security plan and tests

communications, coordination, resource availability, and response.

Facility means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the U.S. and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation.

Facility Security Assessment (FSA) means an analysis that examines and evaluates the infrastructure and operations of the facility taking into account possible threats, vulnerabilities, consequences, and existing protective measures, procedures and operations.

Facility Security Officer (FSO) means the person designated as responsible for the development, implementation, revision and maintenance of the facility security plan and for liaison with the COTP and Company and Vessel Security Officers.

Facility Security Plan (FSP) means the plan developed to ensure the application of security measures designed to protect the facility and its servicing vessels or those vessels interfacing with the facility, their cargoes, and persons on board at the respective MARSEC Levels.

Ferry means a vessel which is limited in its use to the carriage of deck passengers or vehicles or both, operates on a short run on a frequent schedule between two or more points over the most direct water route, other than in ocean or coastwise service.

Foreign vessel means a vessel of foreign registry or a vessel operated under the authority of a country, except the U.S., that is engaged in commerce.

Gross register tons (GRT) means the gross ton measurement of the vessel under 46 U.S.C. chapter 145, Regulatory Measurement. For a vessel measured under only 46 U.S.C. chapter 143, Convention Measurement, the vessel's gross tonnage, ITC is used to apply all thresholds expressed in terms of gross register tons.

Gross tonnage, ITC (GT ITC) means the gross tonnage measurement of the vessel under 46 U.S.C. chapter 143, Convention Measurement. Under international conventions, this parameter may be referred to as ''gross tonnage (GT).''

Hazardous materials means hazardous materials subject to regulation under 46 CFR parts 148, 150, 151, 153, or 154, or 49 CFR parts 171 through 180.

Infrastructure means facilities, structures, systems, assets, or services so vital to the port and its economy that their disruption, incapacity, or destruction would have a debilitating impact on defense, security, the environment, long-term economic prosperity, public health or safety of the port.

International voyage means a voyage between a country to which SOLAS applies and a port outside that country. A country, as used in this definition, includes every territory for the internal relations of which a contracting government to the convention is responsible or for which the United Nations is the administering authority. For the U.S., the term ''territory'' includes the Commonwealth of Puerto Rico, all possessions of the United States, and all lands held by the U.S. under a protectorate or mandate. For the purposes of this subchapter, vessels are considered as being on an ''international voyage'' when solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

ISPS Code means the International Ship and Port Facility Security Code, as incorporated into SOLAS.

Maritime Security (MARSEC) Directive means an instruction issued by the Commandant, or his/her delegee, mandating specific security measures for vessels and facilities that may be involved in a transportation security incident.

Maritime Security (MARSEC) Level means the level set to reflect the prevailing threat environment to the marine elements of the national transportation system, including ports, vessels, facilities, and critical assets and infrastructure located on or adjacent to waters subject to the jurisdiction of the U.S.

MARSEC Level 1 means the level for which minimum appropriate protective security measures shall be maintained at all times.

MARSEC Level 2 means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a transportation security incident.

MARSEC Level 3 means the level for which further specific protective security measures shall be maintained for a limited period of time when a transportation security incident is probable or imminent, although it may not be possible to identify the specific target.

Master means the holder of a valid license that authorizes the individual to serve as a Master, operator, or person in charge of the rated vessel. For the purposes of this subchapter, Master also includes the Person in Charge of a MODU, and the operator of an uninspected towing vessel.

OCS Facility means any artificial island, installation, or other complex of one or more structures permanently or temporarily attached to the subsoil or seabed of the OCS, erected for the purpose of exploring for, developing or producing oil, natural gas or mineral resources. This definition includes all mobile offshore drilling units (MODUs) not covered under part 104 of this subchapter, when attached to the subsoil or seabed of offshore locations, but does not include deepwater ports, as defined by 33 U.S.C. 1502, or pipelines.

Operator, Uninspected Towing Vessel means an individual who holds a license described in 46 CFR 15.805(a)(5) or 46 CFR 15.810(d).

Owner or operator means any person or entity that maintains operational control over any facility, vessel, or OCS facility subject to the requirements of this subchapter.

Passenger vessel means—

(1) On an international voyage, a vessel carrying more than 12 passengers; and

(2) On other than an international voyage:

(i) A vessel of at least 100 gross register tons carrying more than 12 passengers, including at least one passenger-for-hire;

(ii) A vessel of less than 100 gross register tons carrying more than 6 passengers, including at least one passenger-for-hire;

(iii) A vessel that is chartered and carrying more than 12 passengers;

(iv) A submersible vessel that is carrying at least one passenger-for-hire; or

(v) A wing-in-ground craft, regardless of tonnage, that is carrying at least one passenger-for-hire.

Passenger-for-hire means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

Registered length means the registered length as defined in 46 CFR part 69.

Restricted areas mean the infrastructures or locations identified in an area, vessel, or facility security assessment or by the operator that require limited access and a higher degree of security protection. The entire facility may be designated the restricted area, as long as the entire facility is provided the appropriate level of security.

Review and approval means the process whereby Coast Guard officials evaluate a plan or proposal to determine

if it complies with this subchapter and/or provides an equivalent level of security.

Screening means a reasonable examination of persons, cargo, vehicles, or baggage for the protection of the vessel, its passengers and crew. The purpose of the screening is to secure the vital government interest of protecting vessels, harbors, and waterfront facilities from destruction, loss, or injury from sabotage or other causes of similar nature. Such screening is intended to ensure that dangerous substances and devices, or other items that pose a real danger of violence or a threat to security are not present.

Security sweep means a walkthrough to visually inspect unrestricted areas to identify unattended packages, briefcases, or luggage and determine that all restricted areas are secure.

Security system means a device or multiple devices designed, installed and operated to monitor, detect, observe or communicate about activity that may pose a security threat in a location or locations on a vessel or facility.

Sensitive security information (SSI) means information within the scope of 49 CFR part 1520.

SOLAS means the International Convention for the Safety of Life at Sea Convention, 1974, as amended.

Survey means an on-scene examination and evaluation of the physical characteristics of a vessel or facility, and its security systems, processes, procedures, and personnel.

Transportation security incident (TSI) means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

Unaccompanied baggage means any baggage, including personal effects, which are not with the passenger, crewmember or any other person at the point of inspection or screening prior to boarding the vessel.

Vessel-to-facility interface means the interaction that occurs when a vessel is directly and immediately affected by actions involving the movement of persons, goods or the provisions of facility services to or from the vessel.

Vessel-to-port interface means the interaction that occurs when a vessel is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the vessel.

Vessel Security Assessment (VSA) means an analysis that examines and evaluates the vessel and its operations taking into account possible threats, vulnerabilities, consequences, and existing protective measures, procedures and operations.

Vessel Security Plan (VSP) means the plan developed to ensure the application of security measures designed to protect the vessel and the facility that the vessel is servicing or interacting with, the vessel's cargoes, and persons on board at the respective MARSEC Levels.

Vessel Security Officer (VSO) means the person onboard the vessel, accountable to the Master, designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel Security Plan, and for liaison with the Facility Security Officer and the vessel's Company Security Officer.

Vessel stores means—

(1) Materials that are on board a vessel for the upkeep, maintenance, safety, operation or navigation of the vessel; and

(2) Materials for the safety or comfort of the vessel's passengers or crew, including any provisions for the vessel's passengers or crew.

Vessel-to-vessel activity means any activity not related to a facility or port that involves the transfer of goods or persons from one vessel to another.

Waters subject to the jurisdiction of the U.S., for purposes of this subchapter, means the navigable waters of the U.S., as defined in 46 U.S.C. 2101(17a); the Exclusive Economic Zone in respect to the living and non-living resources therein; and in respect to facilities located on the Outer Continental Shelf of the U.S., the waters superadjacent thereto.

§ 101.110 Applicability.

Unless otherwise specified, this subchapter applies to vessels, structures, and facilities of any kind, located under, in, on, or adjacent to waters subject to the jurisdiction of the U.S.

§ 101.115 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is on file at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, and at the Office of the Coast Guard Port Security Directorate (G–MP), Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The materials approved for incorporation by reference in this subchapter are as follows:

International Maritime Organization (IMO)

Publication Section, 4 Albert Embankment, London SE1 7SR, United Kingdom.

Conference resolution 1, Adoption of amendments to the Annex to the International Convention for the Safety of Life at Sea, 1974, and amendments to Chapter XI of SOLAS 1974, adopted December 12, 2002, (SOLAS Chapter XI–1 or SOLAS Chapter XI–2).	101.120; 101.310; 101.410; 101.505; 104.105; 104.115; 104.120; 104.297; 104.400.
Conference resolution 2, Adoption of the International Code for the Security of Ships and of Port Facilities, parts A and B, adopted on December 12, 2002 (ISPS Code).	101.410; 101.505; 104.105; 104.115; 104.120; 104.297; 104.400.

§ 101.120 Alternatives.

(a) *Alternative Security Agreements.* (1) The U.S. may conclude in writing, as provided in SOLAS Chapter XI–2, Regulation 11 (Incorporated by reference, see § 101.115), a bilateral or multilateral agreements with other Contracting Governments to SOLAS on Alternative Security Arrangements covering short international voyages on fixed routes between facilities subject to the jurisdiction of the U.S. and facilities in the territories of those Contracting Governments.

(2) As further provided in SOLAS Chapter XI–2, Regulation 11, a vessel covered by such an agreement shall not conduct any vessel-to-vessel activity with any vessel not covered by the agreement.

(b) *Alternative Security Programs.* (1) Owners and operators of vessels and facilities required to have security plans under part 104, 105, or 106 of this subchapter, other than vessels that engage on international voyages and facilities that serve only vessels on international voyages, may meet an Alternative Security Program that has been reviewed and approved by the Commandant (G–MP) as meeting the requirements of part 104, 105, or 106, as applicable.

(2) Owners or operators must implement an approved Alternative Security Program in its entirety to be deemed in compliance with either part 104, 105, or 106.

(3) Owners or operators who have implemented an Alternative Security Program must send a letter to the appropriate plan approval authority under part 104, 105, or 106 of this subchapter identifying which Alternative Security Program they have implemented, identifying those vessels or facilities that will implement the Alternative Security Program, and attesting that they are in full compliance therewith. A copy of this letter shall be retained on board the vessel or kept at the facility to which it pertains along with a copy of the Alternative Security Program.

(c) *Approval of Alternative Security Programs.* You must submit to the Commandant (G–MP) for review and approval the Alternative Security Program and the following information to assess the adequacy of the proposed Alternative Security Program:

(1) A list of the vessel and facility type that the Alternative Security Program is intended to apply;

(2) A security assessment for the vessel or facility type;

(3) Explanation of how the Alternative Security Program addresses the requirements of parts 104, 105, or 106, as applicable; and

(4) Explanation of how owners and operators must implement the Alternative Security Program in its entirety, including performing an operational and vessel or facility specific assessment and verification of implementation.

(d) The Commandant (G–MP) will examine each submission for compliance with this part, and either:

(1) Approve it and specify any conditions of approval, returning to the submitter a letter stating its acceptance and any conditions, or

(2) Disapprove it, returning a copy to the submitter with a brief statement of the reasons for disapproval.

§ 101.125 Approved Alternative Security Programs. [Reserved]

§ 101.130 Equivalent security measures.

(a) For any measure required by part 104, 105, or 106 of this subchapter, the owner or operator may substitute an equivalent security measure that has been approved by the Commandant (G–MP) as meeting or exceeding the effectiveness of the required measure. The Commandant (G–MP) may require that the owner or operator provide data for use in assessing the effectiveness of the proposed equivalent security measure.

(b) Requests for approval of equivalent security measures should be made to the appropriate plan approval authority under parts 104, 105 or 106 of this subchapter.

Subpart B—Maritime Security (MARSEC) Levels

§ 101.200 MARSEC Levels.

(a) MARSEC Levels advise the maritime community and the public of the level of risk to the maritime elements of the national transportation system. Ports, under direction of the local COTP, will respond to changes in the MARSEC Level by implementing the measures specified in the AMS Plan. Similarly, vessels and facilities required to have security plans under part 104, 105, or 106 of this subchapter shall implement the measures specified in their security plans for the applicable MARSEC Level.

(b) Unless otherwise directed, each port, vessel, and facility shall operate at MARSEC Level 1.

(c) The Commandant will set the MARSEC Level consistent with the equivalent Homeland Security Advisory System (HSAS) Threat Condition and that Threat Condition's scope of application. Notwithstanding the HSAS, the Commandant retains discretion to adjust the MARSEC Level when necessary to address any particular security concerns or circumstances related to the maritime elements of the national transportation system.

(d) The COTP may temporarily raise the MARSEC Level for the port, a specific marine operation within the port, or a specific industry within the port, when necessary to address an exigent circumstance immediately affecting the security of the maritime elements of the transportation system in his/her area of responsibility.

§ 101.205 Department of Homeland Security alignment.

The MARSEC Levels are aligned with the Department of Homeland Security's Homeland Security Advisory System (HSAS), established by Homeland Security Presidential Directive 3. Table 101.205, titled ''Relation between HSAS and MARSEC Levels'' in this section, shows this alignment.

TABLE 101.205.—RELATION BETWEEN HSAS AND MARSEC LEVELS

Homeland security advisory system (HSAS) threat condition	Equivalent maritime security (MARSEC) level
Low: Green	MARSEC Level 1.
Elevated: Blue Guarded: Yellow.	
High: Orange	MARSEC Level 2.
Severe: Red	MARSEC Level 3.

Subpart C—Communication (Port—Facility—Vessel)

§ 101.300 Preparedness communications.

(a) *Notification of MARSEC Level change.* The COTP will communicate any changes in the MARSEC Levels through a local Broadcast Notice to Mariners, a Maritime Security Directive issued under section 101.405 of this part, or as detailed in the AMS Plan.

(b) *Communication of threats.* When the COTP is made aware of a threat that may cause a transportation security incident, the COTP will, when appropriate, communicate to the port stakeholders, vessels, and facilities in his or her AOR the following details:

(1) Geographic area potentially impacted by the probable threat;

(2) Any appropriate information identifying potential targets;

(3) Onset and expected duration of probable threat;

(4) Type of probable threat; and

(5) Required actions to minimize risk.

(c) *Attainment.* (1) Each owner or operator of a vessel or facility required to have a security plan under parts 104 or 105 of this subchapter affected by a change in the MARSEC Level must confirm to their local COTP the attainment of measures or actions described in their security plan and any other requirements imposed by the COTP that correspond with the MARSEC Level being imposed by the change.

(2) Each owner or operator of a facility required to have a security plan under part 106 of this subchapter affected by a change in the MARSEC Level must confirm to their cognizant District Commander the attainment of measures or actions described in their security plan and any other requirements imposed by the District Commander or COTP that correspond with the MARSEC Level being imposed by the change.

§ 101.305 Reporting.

(a) *Notification of suspicious activities.* An owner or operator required to have a security plan under

part 104, 105, or 106 of this subchapter shall, without delay, report activities that may result in a transportation security incident to the National Response Center at the following toll free telephone: 1–800–424–8802, direct telephone: 202–267–2675, fax: 202–267–2165, TDD: 202–267–4477, or Email: *lst-nrcinfo@comdt.uscg.mil.*

Any other person or entity is also encouraged to report activities that may result in a transportation security incident to the National Response Center.

(b) *Notification of breaches of security.* An owner or operator required to have a security plan under parts 104, 105, or 106 of this subchapter shall, without delay, report breaches of security to the National Response Center via one of the means listed in paragraph (a) of this section.

(c) *Notification of transportation security incident (TSI).* (1) Any owner or operator required to have a security plan under part 104 or 105 of this subchapter shall, without delay, report a TSI to their local COTP and immediately thereafter begin following the procedures set out in their security plan, which may include contacting the National Response Center via one of the means listed in paragraph (a) of this section.

(2) Any owner or operator required to have a security plan under part 106 of this subchapter shall, without delay, report a TSI to their cognizant District Commander and immediately thereafter begin following the procedures set out in their security plan, which may include contacting the National Response Center via one of the means listed in paragraph (a) of this section.

(d) Callers to the National Response Center should be prepared to provide as much of the following information as possible:

(1) Their own name and contact information;

(2) The name and contact information of the suspicious or responsible party;

(3) The location of the incident, as specifically as possible; and

(4) The description of the incident or activity involved.

§ 101.310 Additional communication devices.

(a) *Alert Systems.* Alert systems, such as the ship security alert system required in SOLAS Chapter XI–2, Regulation 6 (Incorporated by reference, see § 101.115), may be used to augment communication and may be one of the communication methods listed in a vessel or facility security plan under part 104, 105, or 106 of this subchapter.

(b) *Automated Identification Systems (AIS).* AIS may be used to augment communication, and may be one of the communication methods listed in a vessel security plan under part 104 of this subchapter. See 33 CFR part 164 for additional information on AIS device requirements.

Subpart D—Control Measures for Security

§ 101.400 Enforcement.

(a) The rules and regulations in this subchapter are enforced by the COTP under the supervision and general direction of the District Commander, Area Commander, and the Commandant. All authority and power vested in the COTP by the rules and regulations in this subchapter is also vested in, and may be exercised by, the District Commander, Area Commander, and the Commandant.

(b) The COTP, District Commander, Area Commander, or Commandant may assign the enforcement authority described in paragraph (a) of this section to any other officer or petty officer of the Coast Guard or other designees authorized by the Commandant.

(c) The provisions in this subchapter do not limit the powers conferred upon Coast Guard commissioned, warrant, or petty officers by any other law or regulation, including but not limited to 33 CFR parts 6, 160, and 165.

§ 101.405 Maritime Security (MARSEC) Directives.

(a)(1) When the Coast Guard determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against the maritime elements of the national transportation system, the Coast Guard may issue a MARSEC Directive setting forth mandatory measures. Only the Commandant or his/her delegee may issue MARSEC Directives under this section. Prior to issuing a MARSEC Directive, the Commandant or his/her delegee will consult with those Federal agencies having an interest in the subject matter of that MARSEC Directive. All MARSEC Directives issued under this section shall be marked as sensitive security information (SSI) in accordance with 49 CFR part 1520.

(2) When a MARSEC Directive is issued, the Coast Guard will immediately publish a notice in the **Federal Register**, and affected owners and operators will need to go to their local COTP or cognizant District Commander to acquire a copy of the MARSEC Directive. COTPs and District Commanders will require the owner or operator to prove that they have a ''need to know'' the information in the MARSEC Directive and that they are a ''covered person,'' as those terms are defined in 49 CFR part 1520.

(b) Each owner or operator of a vessel or facility to whom a MARSEC Directive applies is required to comply with the relevant instructions contained in a MARSEC Directive issued under this section within the time prescribed by that MARSEC Directive.

(c) Each owner or operator of a vessel or facility required to have a security plan under parts 104, 105 or 106 of this subchapter that receives a MARSEC Directive must:

(1) Within the time prescribed in the MARSEC Directive, acknowledge receipt of the MARSEC Directive to their local COTP or, if a facility regulated under part 106 of this subchapter, to their cognizant District Commander; and

(2) Within the time prescribed in the MARSEC Directive, specify the method by which the measures in the MARSEC Directive have been implemented (or will be implemented, if the MARSEC Directive is not yet effective).

(d) In the event that the owner or operator of a vessel or facility required to have a security plan under part 104, 105, or 106 of this subchapter is unable to implement the measures in the MARSEC Directive, the owner or operator must submit proposed equivalent security measures and the basis for submitting the equivalent security measures to the COTP or, if a facility regulated under part 106 of this subchapter, to their cognizant District Commander, for approval.

(e) The owner or operator must submit the proposed equivalent security measures within the time prescribed in the MARSEC Directive. The owner or operator must implement any equivalent security measures approved by the COTP, or, if a facility regulated under part 106 of this subchapter, by their cognizant District Commander.

§ 101.410 Control and Compliance Measures.

(a) The COTP may exercise authority pursuant to 33 CFR parts 6, 160 and 165, as appropriate, to rectify non-compliance with this subchapter. COTPs or their designees are the officers duly authorized to exercise control and compliance measures under SOLAS Chapter XI–2, Regulation 9, and the ISPS Code (Incorporated by reference, see § 101.115).

(b) Control and compliance measures for vessels not in compliance with this

subchapter may include, but are not limited to, one or more of the following:

(1) Inspection of the vessel;

(2) Delay of the vessel;

(3) Detention of the vessel;

(4) Restriction of vessel operations;

(5) Denial of port entry;

(6) Expulsion from port;

(7) Lesser administrative and corrective measures; or

(8) For U.S. vessels, suspension or revocation of security plan approval, thereby making that vessel ineligible to operate in, on, or under waters subject to the jurisdiction of the U.S. in accordance with 46 U.S.C. 70103(c)(5).

(c) Control and compliance measures for facilities not in compliance with this subchapter may include, but are not limited to, one or more of the following:

(1) Restrictions on facility access;

(2) Conditions on facility operations;

(3) Suspension of facility operations;

(4) Lesser administrative and corrective measures; or

(5) Suspension or revocation of security plan approval, thereby making that facility ineligible to operate in, on, under or adjacent to waters subject to the jurisdiction of the U.S. in accordance with 46 U.S.C. 70103(c)(5).

(d) Control and compliance measures under this section may be imposed on a vessel when it has called on a facility or at a port that does not maintain adequate security measures to ensure that the level of security to be achieved by this subchapter has not been compromised.

§ 101.415 Penalties.

(a) *Civil and criminal penalty.* Violation of any order or other requirement imposed under section 101.405 of this part is punishable by the civil and criminal penalties prescribed in 33 U.S.C. 1232 or 50 U.S.C. 192, as appropriate.

(b) *Civil penalty.* As provided in 46 U.S.C. 70117, any person who does not comply with any other applicable requirement under this subchapter, including a Maritime Security Directive, shall be liable to the U.S. for a civil penalty of not more than $ 25,000 for each violation. Enforcement and administration of this provision will be in accordance with 33 CFR 1.07.

§ 101.420 Right to appeal.

(a) Any person directly affected by a decision or action taken by a COTP under this subchapter, may appeal that action or decision to the cognizant District Commander according to the procedures in 46 CFR 1.03–15.

(b) Any person directly affected by a decision or action taken by a District Commander, whether made under this subchapter generally or pursuant to paragraph (a) of this section, may be appealed to the Commandant (G–MP), according to the procedures in 46 CFR 1.03–15.

(c) Any person directly affected by a decision or action taken by the Commanding Officer, Marine Safety Center, under this subchapter, may appeal that action or decision to the Commandant (G–MP) according to the procedures in 46 CFR 1.03–15.

(d) Decisions made by Commandant (G–MP), whether made under this subchapter generally or pursuant to the appeal provisions of this section, are considered final agency action.

Subpart E—Other Provisions

§ 101.500 Procedures for authorizing a Recognized Security Organization (RSO). [Reserved]

§ 101.505 Declaration of Security (DoS).

(a) The purpose of a DoS, as described in SOLAS Chapter XI–2, Regulation 10, and the ISPS Code (Incorporated by reference, see § 101.115), is to state the agreement reached between a vessel and a facility, or between vessels in the case of a vessel-to-vessel activity, as to the respective security measures each must undertake during a specific vessel-to-facility interface, during a series of interfaces between the vessel and the facility, or during a vessel-to-vessel activity.

(b) Details as to who must complete a DoS, when a DoS must be completed, and how long a DoS must be retained are included in parts 104 through 106 of this subchapter.

(c) All vessels and facilities required to comply with parts 104, 105, and 106 of this subchapter must, at a minimum, comply with the DoS requirements of the MARSEC Level set for the port.

(d) The COTP may also require a DoS be completed for vessels and facilities during periods of critical port operations, special marine events, or when vessels give notification of a higher MARSEC Level than that set in the COTP's Area of Responsibility (AOR).

§ 101.510 Assessment tools.

Ports, vessels, and facilities required to conduct risk assessments by part 103, 104, 105, or 106 of this subchapter may use any assessment tool that meets the standards set out in part 103, 104, 105, or 106, as applicable. These tools include:

(a) DHS/TSA's vulnerability self-assessment tool located at *http://www.tsa.gov/risk;* and

(b) USCG assessment tools, available from the cognizant COTP or at *http://www.uscg.mil/hq/g-m/nvic,* as set out in the following:

(1) Navigation and Vessel Inspection Circular titled, ''Guidelines for Port Security Committees, and Port Security Plans Required for U.S. Ports'' (NVIC 9–02);

(2) Navigation and Vessel Inspection Circular titled, ''Security Guidelines for Vessels'', (NVIC 10–02); and

(3) Navigation and Vessel Inspection Circular titled, ''Security Guidelines for Facilities'', (NVIC 11–02).

§ 101.515 Personal identification.

(a) Any personal identification credential accepted under the access control provisions of this subchapter must, at a minimum, meet the following requirements:

(1) Be laminated or otherwise secure against tampering;

(2) Contain the individual's full name (full first and last names, middle initial is acceptable);

(3) Contain a photo that accurately depicts that individual's current facial appearance; and

(4) Bear the name of the issuing authority.

(b) The issuing authority in paragraph (a)(4) of this section must be:

(1) A government authority, or an organization authorized to act on behalf of a government authority; or

(2) The individual's employer, union, or trade association.

PART 102—NATIONAL MARITIME TRANSPORTATION SECURITY [RESERVED]

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, Coast Guard Commandant.

[FR Doc. 03–16186 Filed 6–27–03; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 103

[USCG–2003–14733]

RIN 1625–AA42

Area Maritime Security

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments and notice of meeting.

SUMMARY: This interim rule establishes U.S. Coast Guard Captains of the Ports as Federal Maritime Security Coordinators, and establishes

requirements for Area Maritime Security Plans and Area Maritime Security Committees. This rule is one of six interim rules in today's **Federal Register** that comprise a new subchapter on the requirements for maritime security mandated by the Maritime Transportation Security Act of 2002. These six interim rules implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf facilities, and the Automatic Identification System. Where appropriate, they align domestic maritime security requirements with those of the International Ship and Port Facility Security Code and recent amendments to the International Convention for the Safety of Life at Sea. To best understand these interim rules, first read the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792).

DATES: *Effective date.* This interim rule is effective from July 1, 2003 until November 25, 2003.

Comments. Comments and related material must reach the Docket Management Facility on or before July 31, 2003. Comments on collection of information sent to the Office of Management and Budget (OMB) must reach OMB on or before July 31, 2003.

Meeting. A public meeting will be held on July 23, 2003, from 9 a.m. to 5 p.m., in Washington, DC.

ADDRESSES: Comments. To ensure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically to the Docket Management System website at *http://dms.dot.gov.*

(2) By mail to the Docket Management Facility (USCG–2003–14733), U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) By fax to the Docket Management Facility at (202) 493–2251.

(4) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

Meeting. A public meeting will be held on July 23, 2003 in Washington, DC at the Grand Hyatt Washington, D.C., 1000 H Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander Richard Teubner, U.S. Coast Guard by telephone (202) 267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, at (202) 366–5149.

SUPPLEMENTARY INFORMATION: Due to the short timeframe given to implement these National Maritime Transportation Security initiatives, as directed by the Maritime Transportation Security Act (MTSA) of 2002 (MTSA, Public Law 107–295, 116 STAT. 2064), and to ensure all comments are in the public venue for these important rulemakings, we are not accepting comments containing protected information for these interim rules. We request you submit comments, as explained in the Request for Comments section below, and discuss your concerns or support in a manner that is not security sensitive. We also request that you not submit proprietary information as part of your comment.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may also review the Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue before November 25, 2003, to replace this interim rule. If you choose to comment on this rule, please include your name and address, identify the specific docket number for this interim rule (USCG–2003–14733), indicate the specific heading of this document to which each comment applies, and give the reason for each comment. If you have comments on another rule, please submit those comments in a separate letter to the docket for that rulemaking. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES.** Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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 rule in view of them.

Public Meeting

We will hold a public meeting on July 23, 2003, in Washington, DC at the Grand Hyatt Hotel, at the address listed under **ADDRESSES.** The meeting will be from 9 a.m. to 5 p.m. to discuss all of the maritime security interim rules, and the Automatic Identification System (AIS) interim rule, found in today's **Federal Register.** In addition, you may submit a request for other public meetings to the Docket Management Facility at the address under **ADDRESSES** explaining why another one would be beneficial. If we determine that other meetings would aid this rulemaking, we will hold them at a time and place announced by a later notice in the **Federal Register.**

Regulatory Information

We did not publish a notice of proposed rulemaking for this rulemaking and are making this rule effective upon publication. Section 102(d)(1) of the MTSA of 2002 (Pub. L. 107–295, 116 STAT. 2064) requires the publication of an interim rule as soon as practicable without regard to the provisions of chapter 5 of title 5, U.S. Code (Administrative Procedure Act). The Coast Guard finds that harmonization of U.S. regulations with maritime security measures adopted by the International Maritime Organization (IMO) in December 2002, and the need to institute measures for the protection

of U.S. maritime security as soon as practicable, furnish good cause for this interim rule to take effect immediately under both the Administrative Procedure Act and section 808 of the Congressional Review Act.

Background and Purpose

A summary of the Coast Guard's regulatory initiatives for maritime security can be found under the *Background and Purpose* section in the preamble to the interim rule titled: ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in this issue of the **Federal Register.**

Discussion of Comments Addressing Port Issues in the Notice of Meeting Docket

For a discussion of comments on ports at the public meetings and in the docket, see the interim rule titled: ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's issue of the **Federal Register.**

Discussion of Interim Rule

This interim rule adds part 103—Area Maritime Security to a new Subchapter H of Title 33 of the Code of Federal Regulations. This interim rule integrates port security-related requirements in the MTSA of 2002 and the International Ship and Port Facility Security (ISPS) Code. In the MTSA, the port security-related requirements are contained in the elements that address Area Maritime Security Plans and Federal Maritime Security Coordinators. In the ISPS Code, the port security-related requirements are contained in elements that address Port Facility Security Plans and Port Facility Security Officers. A detailed discussion on the MTSA and the ISPS Code and the need for these regulations can be found in the interim rule titled: ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register.**

Part 103—Port Security is composed of the following five subparts.

Subpart A—General.

This subpart applies to all vessels and facilities located in, on, under, or adjacent to waters subject to the jurisdiction of the U.S. A detailed discussion on applicability can be found in the interim rule titled: ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**.

The MTSA and the International Ship and Port Facility Security (ISPS) Code use different terms to define similar, if not identical, persons or things. These differing terms sometimes match up with the terms used in subchapter H, but sometimes they do not. For a table of the terms used in subchapter H and their related terms in the MTSA and the ISPS Code, *see* the *Discussion of Interim Rule* section in the preamble for the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**.

To provide flexibility and a systems approach to security measures for certain areas, we will allow several Area Maritime Security Plans to be combined, if appropriate. This strategy is currently being used to combine the inland river systems into one Area Maritime Security Plan; a similar system-wide concept is being developed for the Great Lakes. In addition, Outer Continental Shelf (OCS) facilities in the Gulf of Mexico will be covered by a single, district-wide plan implemented by the Eighth Coast Guard District. This process includes using each Area Maritime Security Assessment to form building blocks that will be used to create a system-wide security plan methodology that identifies vulnerabilities and consequences to be mitigated using regional strategies and resources. The resulting Area Maritime Security Plan will be a single document that provides consistent security measures throughout multiple Captain of the Port (COTP) zones.

Subpart B—Federal Maritime Security Coordinator (FMSC) Designation and Authorities.

This subpart designates the Coast Guard COTP as the Federal Maritime Security Coordinator. This designation, along with a description of the COTP's authority as Federal Maritime Security Coordinator to establish, convene, and direct the Area Maritime Security (AMS) Committee, fulfills the MTSA requirement to designate a Coast Guard official as the Federal Maritime Security Coordinator.

Subpart C—Area Maritime Security (AMS) Committee.

This subpart describes the composition and responsibilities of the AMS Committee. The AMS Committee brings appropriately experienced representatives from a variety of sources in the port together to continually assess security risks to the port and determine appropriate risk mitigation strategies, develop, revise, and implement the AMS Plan. The AMS Committee may also be the mechanism by which security threats and changes in Maritime Security (MARSEC) Levels are communicated to port stakeholders. AMS Committee membership requirements and terms of office align with the criteria established in the MTSA for ''Area Maritime Security Advisory Committees.'' Port Security Committees, such as those operating under the guidelines of U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) 9–02, that were established prior to the publication of this rule, are considered AMS Committees, provided they conform to the procedures set forth in these rules. The AMS Committee members may include, but are not limited to, the following stakeholders: U.S. Coast Guard, Federal, State, and local law enforcement, emergency response and public safety organizations, recreational vessel associations, environmental response organizations, labor organizations, port managers, and vessel and facility owner/operator security representatives. There must at least seven members in the AMS Committee however; there could be as many as 200 or more representatives.

Subpart D—Area Maritime Security (AMS) Assessment.

This subpart directs the AMS Committee to ensure development of a risk-based AMS Assessment. The AMS Assessment is the important first step in developing an AMS Plan. This subpart lists the essential elements of an AMS Assessment, and these provisions are consistent with the elements of a ''port facility security assessment'' set forth in the ISPS Code. The AMS Assessment may be conducted by the AMS Committee members themselves or by persons acting on behalf of the AMS Committee. This subpart also establishes the skills and knowledge that persons conducting an AMS Assessment must possess. This subpart further identifies the process of evaluations that must be performed in the course of conducting the AMS Assessment: identification of activities or operations critical to the port area; a threat assessment; a consequence and vulnerability assessment; a categorization of each target/scenario combination; and measures that will be implemented at all MARSEC Levels. This process is consistent with the Port Security Assessment model identified in NVIC 9–02.

The following is a list of activities, operations, and infrastructure that may require assessment in the development of the AMS Plan: Highway bridges, railroad bridges, stadiums, tourist attractions, significant symbolic structures, commercial attractions,

marinas, fishing vessels, recreational boats, airports, nuclear facilities, power plants, oil and gas pipelines, anchorages, mid-stream operations (*e.g.*, bunkering), under-and-over water cables, communication networks, utilities providing service to key transportation assets, barge-fleeting areas, oil and gas production platforms, tunnels, non-regulated vessels, non-regulated facilities, Outer Continental Shelf (OCS) facilities, lock and dams, public water supplies (*e.g.*, aqueducts), boat ramps, docks, un-inspected commercial vessels, passenger terminals, grain and aggregate facilities, ship yards, rail yards, tank farms, dikes, levees, sewer and water utility facilities, major marine or special events, waterways. Additional consideration should be given to the criticality of port operations as they relate to vessels and facilities that are directly regulated in parts 104 through 106 of Subchapter H.

The Coast Guard has also funded and contracted Port Security Assessments (PSA) in certain port areas throughout the U.S. The Coast Guard-sponsored PSA team, when completing the PSA, should review the AMS Assessment and AMS Plan for content and consistency. As part of the PSA, recommendations will be made to the COTP on strategies to improve their AMS Plan in the port area that was covered by the PSA. These recommendations will be part of the AMS Plan review process to ensure the AMS Committee becomes aware of the PSA results and revises the AMS Plan appropriately.

Subpart E—Area Maritime Security (AMS) Plan

The AMS Plan is primarily a communication and coordination document. This subpart establishes the core elements of the AMS Plan and its relationship to other plans. Core elements include: Details of operational and physical measures that must be in place at all MARSEC Levels; expected timeframes for responding to security threats and changes of MARSEC Levels; communications procedures; measures to ensure the security of vessels, facilities, and operations that are not covered by the security requirements in other parts of this subchapter; measures to ensure the security of the information in the AMS Plan; periodic review, audit, and updating procedures; and procedures for reporting security incidents. These requirements are consistent with the elements of a ''port facility security plan'' established in the ISPS Code.

This subpart also describes the review and approval process for the AMS Plan. The COTP will submit an AMS Plan to the cognizant District Commander for review, with the Area Commander, or his/her designee, having the authority to approve or disapprove the plan. Approving officers may require additional assessment, mitigation strategies, or other measures by parties subject to Coast Guard jurisdiction as a condition of approving AMS Plans. This review chain has been established to promote plan coordination and consistency within and among Coast Guard Districts and Areas. AMS Plans will form the basis for the National Maritime Transportation Security Plan, established in the MTSA, and will be consistent with the National Transportation Security Plan. This subpart establishes exercise requirements under the AMS Plan. Exercises are an important way to improve system performance and ensure the AMS Plan remains current.

Although the exercise requirements established in this interim rule may be satisfied by a tabletop exercise, as our experience with AMS Plans matures, it may be desirable to require periodic field training exercises for the future. Therefore, public comment is requested on a requirement to conduct a maritime security field training exercise in each area covered by an AMS Plan at least once every 3 years. A maritime security field training exercise would require the deployment of personnel and equipment in accordance with the AMS Plan for the transportation security incident used for the exercise scenario. The purpose of the field training exercise would include: Evaluating the adequacy of the AMS Plan, exercising coordination and interoperability between responding security forces and exercising coordination and interoperability amongst command personnel of responding agencies (*i.e.*, Unified Command) as well as their ability to effectively command and control the response to the transportation security incident. The maritime security field training exercise may be combined with other exercises (*e.g.*, National Preparedness for Response Program (PREP) area exercises) provided a significant security/terrorist attack aspect is included in the scenario.

Finally, this subpart prescribes AMS Assessment and AMS Plan records to be maintained by the COTP for 5 years, and exercise records for 2 years.

Regulatory Assessment

This rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of the Department of Homeland Security. An Assessment is available in the docket as indicated under **ADDRESSES.** A summary of the Assessment follows:

Cost Assessment

This rule will affect stakeholders in 47 maritime areas containing 361 ports. The regulatory assessment and analysis documentation (see docket) details estimated costs to public and private stakeholders and does not include costs to the Coast Guard.

The total cost estimate of the rule, as it pertains to AMS, is present value (PV) $477 million (2003–2012, 7 percent discount rate). The initial cost of the startup period (June 2003–December 2003) for establishing AMS Committees and creating AMS Plans is estimated to be $120 million (non-discounted) for all areas. Following the startup period, the first year of implementation (2004), consisting of monthly AMS Committee meetings and AMS Plan exercises and drills for all areas, is estimated to be $106 million (non-discounted). After the first year of implementation, the annual cost of quarterly AMS Committee meetings and AMS Plan exercises and drills for all areas is estimated to be $46 million (non-discounted). The startup period cost associated with creating AMS Committees and AMS Plans for each area is the primary cost driver of the rule. Both the startup and implementation year period (2003–2004) combined is nearly half of the total 10-year PV cost estimate, making initial development, planning, and testing the primary costs of Area Maritime Security.

This rule will require all COTPs to establish security committees, plans, training drills, and exercises for their areas, with the participation of port stakeholders in their areas. The above costs to stakeholders will be paperwork, travel, and communication costs associated with participation in AMS Plan implementation.

We estimate 1,203,200 hours of paperwork and other associated planning activities during 2003, the initial period of security meetings and development. In 2004, the first year of implementation, we estimate the value will fall slightly to 1,090,400 hours of paperwork and other related information and communication activities related to monthly AMS Committee meetings. In subsequent years, we estimate the hours will fall to 488,800 hours—annually associated

with AMS Committee meetings, AMS Plan revisions, and information exercises and drills.

Benefit Assessment

This interim rule is one of six interim rules that implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf (OCS) facilities, and the Automatic Identification System (AIS). The Coast Guard used the National Risk Assessment Tool (N–RAT) to assess benefits that would result from increased security for vessels, facilities, Outer Continental Shelf (OCS) facilities, and ports. The N–RAT considers threat, vulnerability, and consequences for several maritime entities in various security-related scenarios. For a more detailed discussion on the N–RAT and how we employed this tool, refer to ''Applicability of National Maritime Security Initiatives'' in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**. For this benefit assessment, the Coast Guard used a team of experts to calculate a risk score for each entity and scenario before and after the implementation of required security measures. The difference in before and after scores indicates the benefit of the proposed action.

We recognized that the interim rules are a ''family'' of rules that will reinforce and support one another in their implementation. We must ensure, however, that risk reduction that is credited in one rulemaking is not also credited in another. For a more detailed discussion on the benefit assessment and how we addressed the potential to double-count the risk reduced, refer to *Benefit Assessment* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

We determined annual risk points reduced for each of the six interim rules using the N–RAT. The benefits are apportioned among the Vessel, Facility, OCS Facility, AMS, and AIS requirements. As shown in Table 1, the implementation of AMS Plans for the affected population reduces 135,202 risk points annually through 2012. The benefits attributable for part 101—General Provisions—were not considered separately since it is an overarching section for all the parts.

TABLE 1.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES.

Maritime entity	Annual risk points reduced by rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
Vessels	778,633	3,385	3,385	3,385	1,448
Facilities	2,025	469,686	.....	2,025	.....
OCS Facilities	41	.....	9,903	.....	.....
Port Areas	587	587	.....	129,792	105
Total	781,285	473,659	13,288	135,202	1,553

Once we determined the annual risk points reduced, we discounted these estimates to their PV (7 percent discount rate, 2003–2012) so that they could be compared to the costs. We presented the cost effectiveness, or dollars per risk point reduced, in two ways: First, we compared the first-year cost and first-year benefit because the first-year cost is the highest in our assessment as companies develop security plans and purchase equipment. Second, we compared the 10-year PV cost to the 10-year PV benefit. The results of our assessment are presented in Table 2.

TABLE 2.—FIRST-YEAR AND 10-YEAR PV COST AND BENEFIT OF THE INTERIM RULES

Item	Interim rule				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS *
First-Year Cost (millions)	$218	$1,125	$3	$120	$41
First-Year Benefit	781,285	473,659	13,288	135,202	1,553
First-Year Cost Effectiveness ($/Risk Point Reduced)	$279	$2,375	$205	$890	$26,391
10-Year PV Cost (millions)	$1,368	$5,399	$37	$477	$42
10-Year PV Benefit	5,871,540	3,559,655	99,863	1,016,074	11,671
10-Year PV Cost Effectiveness ($/Risk Point Reduced)	$233	$1,517	$368	$469	$3,624

* Cost less monetized safety benefit.

Small Entities

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

The stakeholders affected by this rule include a variety of businesses and governments. The COTP will designate approximately 200 stakeholders, per maritime area, to engage in security planning, meetings, and drills. Full participation by these stakeholders will be voluntary. We estimate the first-year cost, per stakeholder, to be $12,800 (non-discounted). In subsequent years, the annual cost, per stakeholder (full participation in this rule), falls to $4,940 (non-discounted).

The results from our assessment (copy available in the docket) suggest that the impact of this rule is not significant for port and maritime area authorities,

owners, or operators because of the low average annual cost per stakeholder and the voluntary nature of participating in this rule.

We estimated the majority of small entities have a less than 3 percent impact on revenue if they choose to fully participate in this rule. We anticipate the few remaining small entities that may have a greater than 3 percent impact on annual revenue will either opt out (not participate) or partially participate in the rule to the extent that the impact on revenue is not a burden.

There are other stakeholders affected by this rule in addition to port authorities, owners, and operators. The stakeholders could be any entity that the COTP invites to partially or fully participate. We anticipate the impact on other possible small entity stakeholders to be minimal because of the low average annual cost per stakeholder and the voluntary nature of participating in this rule.

Therefore, the Coast Guard certifies, under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult LCDR Richard Teubner, USCG–MPS–2 by telephone, 202–267–1103, toll-free telephone, 1–800–842–8740 ext. 7–1103, or electronic mail, *msregs@comdt.uscg.mil.*

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

Collection of Information

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. It modifies an existing OMB-approved collection—1625–0077 [formerly 2115–0622]. A summary of the revised collection follows.

Title: Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077

Summary of the Collection of Information: The Coast Guard requires security plans and communication procedures for U.S. ports and maritime areas. This rule provides a framework to ensure adequate security planning, exercises, drilling, and communication procedures by inviting port and maritime area stakeholders (at the discretion of the COTP) to participate in security planning events including, but not limited to, meetings and information drills as detailed in part 103.

Need for Information: The primary need for information would be to determine if stakeholders are in compliance with security standards.

Proposed Use of Information: This information can help to determine appropriate security measures for the affected population. This information also can help determine, in the case of a transportation security incident, whether failure to meet these regulations contributed to the transportation security incident.

Description of the Respondents: This rule will affect approximately 200 stakeholders in 47 maritime areas containing 361 ports. The respondents are public and private stakeholders in the affected port areas (at the discretion of the COTP).

Number of Respondents: 9,400 (200 stakeholders in 47 maritime areas).

Frequency of Response: Varies. Initial AMS Plan planning occurs throughout the first year on an undefined schedule. AMS Committee meetings may occur monthly in the first two years of this rule with quarterly AMS Committee meetings in subsequent years. Frequency of AMS Committee meetings is established in the AMS Committee Charter. After the first year, AMS Plan exercises occur once each calendar year with no more than 18 months between exercises.

Burden of Response: The burden of response is approximately 128 hours for the first year per stakeholder. The second year burden of response is 116 hours per stakeholder. In the subsequent years, the annual burden of response is approximately 52 hours per stakeholder.

Estimate of Total Annual Burden: During the initial year the burden will be 1,203,200 hours. Subsequently, the average annual reporting burden is 488,800 hours for all stakeholders in all 47 COTP zones. For a summary of all revisions to this existing OMB-approved collection, refer to *Collection of Information* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to OMB for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for ''emergency processing'' of our request. We received OMB approval for the collection of information on June 16, 2003. It is valid until December 31, 2003.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES,** by the date under **DATES**.

You need not respond to a collection of information, unless it displays a currently valid control number from OMB. We received OMB approval for the collection of information on June 16, 2003. It is valid until December 31, 2003.

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. *See* the *Federalism* section in the preamble to the interim

rule titled: ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**, for a discussion of our analysis under this Executive Order.

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. This rule is exempted from assessing the effect of the regulatory action as required by the Act because it is necessary for the national security of the U.S. (2 U.S.C. 1503(5)).

Taking of Private Property

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

Civil Justice Reform

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this interim 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. Although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

This interim rule has a positive effect on the supply, distribution, and use of energy. The interim rule provides for security assessments, plans, procedures, and standards, which will prove beneficial for the supply, distribution, and use of energy at increased levels of maritime security.

Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it would likely create obstacles to the foreign commerce of the U.S. However, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the security of the U.S., any obstacles created by the regulation are not considered unnecessary obstacles.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(a) and (34)(c) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This interim rule concerns security assessments and the establishment of security committees and coordinators that will contribute to a higher level of marine safety and security for U.S. ports. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION.**

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this rule will be done in conjunction with appropriate State coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

List of Subjects in 33 CFR Part 103

Facilities, Harbors, Maritime security, Ports, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard is adding part 103 to subchapter H of chapter I of title 33 in the CFR to read as follows:

SUBCHAPTER H—MARITIME SECURITY

PART 103—AREA MARITIME SECURITY

Subpart A—General

Sec.
103.100 Applicability.
103.105 Definitions.

Subpart B—Federal Maritime Security Coordinator (FMSC) Designation and Authorities

103.200 Designation of the Federal Maritime Security Coordinator (FMSC).
103.205 Authority of the COTP as the Federal Maritime Security Coordinator (FMSC).

Subpart C—Area Maritime Security (AMS) Committee

103.300 Area Maritime Security (AMS) Committee.
103.305 Composition of an Area Maritime Security (AMS) Committee.
103.310 Responsibilities of the Area Maritime Security (AMS) Committee.

Subpart D—Area Maritime Security (AMS) Assessment

103.400 General.
103.405 Elements of the Area Maritime Security (AMS) Assessment.
103.410 Persons involved in the Area Maritime Security (AMS).

Subpart E—Area Maritime Security (AMS) Plan

103.500 General.
103.505 Elements of the Area Maritime Security (AMS) Plan.
103.510 Area Maritime Security (AMS) Plan review and approval.
103.515 Exercises.
103.520 Recordkeeping.

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70102, 70103, 70104, 70112; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.

Subpart A—General

§ 103.100 Applicability.

This part applies to all vessels and facilities located in, on, under, or adjacent to waters subject to the jurisdiction of the U.S.

§ 103.105 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

Subpart B—Federal Maritime Security Coordinator (FMSC) Designation and Authorities

§ 103.200 Designation of the Federal Maritime Security Coordinator (FMSC).

The COTPs are the Federal Maritime Security Coordinators for their respective COTP zones described in 33 CFR part 3, including all ports and areas located therein.

§ 103.205 Authority of the COTP as the Federal Maritime Security Coordinator (FMSC).

(a) Without limitation to the authority vested in the COTP by statute or regulation, and in addition to authority prescribed elsewhere in this part, the COTP as the FMSC is authorized to:

(1) Establish, convene, and direct the Area Maritime Security (AMS) Committee;

(2) Appoint members to the AMS Committee;

(3) Develop and maintain, in coordination with the AMS Committee, the AMS Plan;

(4) Implement and exercise the AMS Plan; and

(5) Maintain the records required by § 103.520 of this part.

(b) The authorizations in paragraph (a) of this section do not limit any other existing authority of the COTP.

Subpart C—Area Maritime Security (AMS) Committee

§ 103.300 Area Maritime Security (AMS) Committee.

(a) The AMS Committee is established under the direction of the COTP and shall assist in the development, review, and update of the AMS Plan for their area of responsibility. For the purposes of this subchapter, Port Security Committees that were established prior to July 1, 2003, according to guidance issued by the Coast Guard, may be considered AMS Committees, provided they conform to the procedures established by this part and satisfy the membership requirements of § 103.305 of this part.

(b) The AMS Committee will operate under terms specified in a written charter. At a minimum, the charter must address:

(1) The AMS Committee's purpose and geographic area of responsibility;

(2) Rules for membership;

(3) The AMS Committee's organizational structure and procedural rules of order;

(4) Frequency of meetings, to include not less than once in a calendar year or when requested by a majority of the AMS Committee members;

(5) Guidelines for public access to AMS Committee meetings and records; and

(6) Rules for handling and protecting classified, sensitive security, commercially sensitive, and proprietary information.

§ 103.305 Composition of an Area Maritime Security (AMS) Committee.

(a) An AMS Committee must be composed of not less than seven members, each having at least 5 years of experience related to maritime or port security operations, and who may be selected from:

(1) The Federal, Territorial, or Tribal government;

(2) The State government and political subdivisions thereof;

(3) Local public safety, crisis management and emergency response agencies;

(4) Law enforcement and security organizations;

(5) Maritime industry;

(6) Other port stakeholders having a special competence in maritime security; and

(7) Port stakeholders affected by security practices and policies.

(b) Members appointed under this section serve for a term of not more than 5 years. In appointing members, the COTP should consider the skills required by § 103.410 of this part. Prior to the appointment of an individual to a position on the AMS Committee, the COTP may require an appropriate security background examination of the candidate member.

§ 103.310 Responsibilities of the Area Maritime Security (AMS) Committee.

(a) The AMS Committee shall:

(1) Identify critical port infrastructure and operations;

(2) Identify risks (threats, vulnerabilities, and consequences);

(3) Determine mitigation strategies and implementation methods;

(4) Develop and describe the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and

(5) Provide advice to, and assist the COTP in, developing the AMS Plan.

(b) The AMS Committee shall also serve as a link for communicating threats and changes in MARSEC Levels, and disseminating appropriate security information to port stakeholders.

Subpart D—Area Maritime Security (AMS) Assessment

§ 103.400 General.

(a) The Area Maritime Security (AMS) Committee will ensure that a risk based AMS Assessment, is completed and meets the requirements specified in § 103.310 of this part and § 101.510 of this subchapter, incorporating the elements specified in § 103.405 of this part.

(b) AMS Assessments can be completed by the COTP, the AMS Committee, a Coast Guard Port Security Assessment team, or by another third party approved by the AMS Committee.

(c) Upon completion of each AMS Assessment, a written report, which is designated sensitive security information, must be prepared consisting of:

(1) A summary of how the AMS Assessment was conducted;

(2) A description of each vulnerability and consequences found during the AMS Assessment; and

(3) A description of risk reduction strategies that could be used to ensure continued operation at an acceptable risk level.

§ 103.405 Elements of the Area Maritime Security (AMS) Assessment.

(a) The AMS Assessment must include the following elements:

(1) Identification of the critical Marine Transportation System infrastructure and operations in the port;

(2) Threat assessment that identifies and evaluates each potential threat on the basis of various factors, including capability and intention;

(3) Consequence and vulnerability assessment for each target/scenario combination; and

(4) A determination of the required security measures for the three MARSEC Levels.

(b) In order to meet the elements listed in paragraph (a) of this section, an AMS Assessment should consider each of the following:

(1) Physical security of infrastructure and operations at the port;

(2) Structures considered critical for the continued operation of the port;

(3) Existing security systems and equipment available to protect maritime personnel;

(4) Procedural policies;

(5) Radio and telecommunication systems, including computer systems and networks;

(6) Relevant transportation infrastructure;

(7) Utilities;

(8) Security resources and capabilities; and

(9) Other areas that may, if damaged, pose a risk to people, infrastructure, or operations within the port.

(c) AMS Assessments are sensitive security information and must be protected in accordance with 49 CFR part 1520.

§ 103.410 Persons involved in the Area Maritime Security (AMS) Assessment.

The persons carrying out the AMS Assessment must have the appropriate skills to evaluate the security of the port in accordance with this part. This includes being able to draw upon expert assistance in relation to:

(a) Knowledge of current security threats and patterns;

(b) Recognition and detection of dangerous substances, and devices;

(c) Recognition, on a non-discriminatory basis, of characteristics and behavioral patterns of persons who are likely to threaten security;

(d) Techniques used to circumvent security measures;

(e) Methods used to cause a transportation security incident;

(f) Effects of dangerous substances and devices on structures and port services;

(g) Port security requirements;

(h) Port business practices;

(i) Contingency planning, emergency preparedness, and response;

(j) Physical security measures;

(k) Radio and telecommunications systems, including computer systems and networks;

(l) Transportation and civil engineering;

(m) Vessel and port operations; and

(n) Knowledge of the impact, including cost impacts of implementing security measures on port operations.

Subpart E—Area Maritime Security (AMS) Plan

§ 103.500 General.

(a) The Area Maritime Security (AMS) Plan is developed by the COTP, in consultation with the AMS Committee, and is based on an AMS Assessment that meets the provisions of subpart D of this part. The AMS Plan must be consistent with the National Maritime Transportation Security Plan and the National Transportation Security Plan.

(b) AMS Plans are sensitive security information and must be protected in accordance with 49 CFR part 1520.

§ 103.505 Elements of the Area Maritime Security (AMS) Plan.

The AMS Plan should address the following elements, as applicable:

(a) Details of both operational and physical measures that are in place in the port at MARSEC Level 1;

(b) Details of the additional security measures that enable the port to progress, without delay, to MARSEC Level 2 and, when necessary, to MARSEC Level 3;

(c) Details of the security incident command-and-response structure;

(d) Details for regular audit of the AMS Plan, and for its amendment in response to experience or changing circumstances;

(e) Measures to prevent the introduction of dangerous substances and devices into designated restricted areas within the port;

(f) Measures to prevent unauthorized access to designated restricted areas within the port;

(g) Procedures and expected timeframes for responding to security threats or breaches of security, including provisions for maintaining infrastructure and operations in the port;

(h) Procedures for responding to any security instructions the Coast Guard announces at MARSEC Level 3;

(i) Procedures for evacuation within the port in case of security threats or breaches of security;

(j) Procedures for periodic plan review, exercise, and updating;

(k) Procedures for reporting transportation security incidents (TSI);

(l) Identification of, and methods to communicate with, Facility Security Officers (FSO), Company Security Officers (CSO), Vessel Security Officers (VSO), public safety officers, emergency response personnel, and crisis management organization representatives within the port, including 24-hour contact details;

(m) Measures to ensure the security of the information contained in the AMS Plan;

(n) Security measures designed to ensure effective security of infrastructure, special events, vessels, passengers, cargo, and cargo handling equipment at facilities within the port not otherwise covered by a Vessel or Facility Security Plan, approved under part 104, 105, or 106 of this subchapter;

(o) Procedures to be taken when a vessel is at a higher security level than the facility or port it is visiting;

(p) Procedures for responding if a vessel security alert system on board a vessel within or near the port has been activated;

(q) Procedures for communicating appropriate security and threat information to the public;

(r) Procedures for handling reports from the public and maritime industry regarding suspicious activity;

(s) Security resources available for incident response and their capabilities;

(t) Procedures for responding to a TSI; and

(u) Procedures to facilitate the recovery of the Marine Transportation System after a TSI.

§ 103.510 Area Maritime Security (AMS) Plan review and approval.

Each AMS Plan will be submitted to the cognizant District Commander for review and then forwarded to the Area Commander for approval.

§ 103.515 Exercises.

(a) The COTP shall coordinate with the Area Maritime Security (AMS) Committee to conduct an exercise at least once each calendar year, with no more than 18 months between exercises, to test the effectiveness of the AMS Plan.

(b) An exercise may consist of any of the following:

(1) A tabletop exercise to validate the AMS Plan. No equipment or personnel deployment is required;

(2) A field training exercise consisting of personnel deployment and use of security equipment; or

(3) A combination of § 103.515(b)(1) and (b)(2).

(c) Upon concurrence of the cognizant District Commander, an actual increase in MARSEC Level, or implementation of enhanced security measures during periods of critical port operations or special marine events may satisfy the exercise requirements of this section.

§ 103.520 Recordkeeping.

(a) All records pertaining to the Area Maritime Security (AMS) Assessment and AMS Plan will be retained by the COTP for 5 years.

(b) Exercise documentation will be kept by the COTP for 2 years.

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, Coast Guard Commandant.

[FR Doc. 03–16187 Filed 6–27–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 104, 160, and 165

46 CFR Parts 2, 31, 71, 91, 115, 126, and 176

[USCG–2003–14749]

RIN 1625–AA46

Vessel Security

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments and notice of meeting.

SUMMARY: This interim rule provides security measures for certain vessels calling on U.S. ports. It requires the owners or operators of vessels to designate security officers for vessels, develop security plans based on security assessments, implement security measures specific to the vessel's operation, and comply with Maritime Security Levels. This interim rule is one of six interim rules in today's **Federal Register** that comprise a new subchapter on the requirements for maritime security mandated by the Maritime Transportation Security Act of 2002. These six interim rules implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf facilities, and the Automatic Identification System. Where appropriate, they align these domestic maritime security requirements with those of the International Ship and Port Facility Security Code and recent amendments to the International Convention for the Safety of Life at Sea. To best understand these interim rules, first read the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792).

DATES: Effective date. This interim rule is effective from July 1, 2003 until November 25, 2003, with the exception of amendatory instructions 2, 5, 6, 8, 9, 10, 12, 14, 15, 16, 18, and 19 which are effective July 1, 2003. The Coast Guard intends to finalize these amendments by November 25, 2003. On July 31, 2003, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this rule.

Comments. Comments and related material must reach the Docket Management Facility on or before. Comments on collection of information sent to the Office of Management and Budget (OMB) must reach OMB on or before July 31, 2003.

Meeting. A public meeting will be held on July 23, 2003, from 9 a.m. to 5 p.m., in Washington, DC.

ADDRESSES: *Comments.* To ensure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically to the Docket Management System Web site at *http://dms.dot.gov.*

(2) By mail to the Docket Management Facility (USCG–2003–14749), U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

Meeting. A public meeting will be held on July 23, 2003 in Washington, DC at the Grand Hyatt Washington, DC, 1000 H Street, NW., Washington, DC 20001.

Availability. Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may also review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Kevin Oditt (G-MP), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.*

If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, and telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: Due to the short timeframe given to implement these National Maritime Transportation Security initiatives, as directed by the Maritime Transportation Security Act (MTSA), and to ensure all comments are in the public venue for these important rulemakings, we are not accepting comments containing protected information for these interim rules. We request you submit comments, as explained in the *Request for Comments* section below, and discuss your concerns or support in a manner that is not security sensitive. We also request that you not submit proprietary information as part of your comment.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue before November 25, 2003, to replace this interim rule. If you choose to comment on this rule, please include your name and address, identify the specific docket number for this interim rule (USCG–2003–14749), indicate the specific heading of this document to which each comment applies, and give the reason for each comment. If you have comments on another rule, please submit those comments in a separate letter to the docket for that rulemaking. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES.** Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the facility, 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 rule in view of them.

Public Meetings

We will hold a public meeting on July 23, 2003, in Washington, DC at the Grand Hyatt Hotel, at the address listed under **ADDRESSES.** The meeting will be from 9 a.m. to 5 p.m. to discuss all of the maritime security interim rules, and the Automatic Identification System (AIS) interim rule, found in today's **Federal Register**. In addition, you may submit a request for other public meetings to the Docket Management Facility at the address under **ADDRESSES** explaining why another one would be beneficial. If we determine that other meetings would aid this rulemaking, we will hold them at a time and place

announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking for this rulemaking and are making this rule effective upon publication. Section 102(d)(1) of the Maritime Transportation Security Act of 2002 (MTSA, Pub. L. 107–295, 116 STAT. 2064) requires the publication of an interim rule as soon as practicable without regard to the provisions of chapter 5 of title 5, U.S. Code (Administrative Procedure Act). The Coast Guard finds that harmonization of U.S. regulations with maritime security measures adopted by the International Maritime Organization (IMO) in December 2002, and the need to institute measures for the protection of U.S. maritime security as soon as practicable, furnish good cause for this interim rule to take effect immediately under both the Administrative Procedure Act and section 808 of the Congressional Review Act.

Background and Purpose

A summary of the Coast Guard's regulatory initiatives for maritime security can be found under the *Background and Purpose* section in the preamble to the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Discussion of Comments Addressing Vessel Issues in the Notice of Meeting

For a discussion of comments on vessels at the public meetings and in the docket, see the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Discussion of Interim Rule

This interim rule regulates the owners or operators of certain classes of vessels, in order to provide greater security to these vessels and to other vessels or ports with which a vessel interfaces. The interim rule adds part 104, Vessel Security, to the new subchapter H, Maritime Security of Title 33 of the Code of Federal Regulation. A general description of the process used in developing subchapter H and its component parts appears in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792).

The MTSA and the International Ship and Port Facility Security (ISPS) Code use different terms to define similar, if not identical, persons or things. These differing terms sometimes match up with the terms used in subchapter H, but sometimes they do not. For a table of the terms used in subchapter H and their related terms in the MTSA and the ISPS Code, see the *Discussion of Interim Rule* section in the preamble for the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**.

The purpose of this rulemaking is to require certain vessels to perform security assessments, develop security plans, and implement security measures and procedures in order to reduce the risk of and to mitigate the results of an act that threatens the security of the crew, the vessel, or the public. This rulemaking combines international requirements and existing domestic policy and is published as a part of a new subchapter on maritime security. The MTSA mandates vessels that are required to conduct security assessments and develop security plans to submit their vessel security plan within 6 months of the publication of this interim rule. It also mandates that the vessels shall be in compliance with their approved security plan within 12 months of the publication of this interim rule. However, consistent with customary international law, the requirements in part 104 do not apply to vessels engaged in innocent passage through the territorial sea of the U.S. or in transit passage through the navigable waters of the U.S. that form part of an international strait.

Part 104 consists of four Subparts: Subpart A (General), subpart B (Vessel Security Requirements), subpart C (Vessel Security Assessment), and subpart D (Vessel Security Plan). Where appropriate, the requirements discussed in part 104 are consistent with requirements in the ISPS Code, and include the requirements discussed below.

Compliance

U.S. flag vessel compliance with this part will be verified during inspections by the Coast Guard as provided in 46 CFR part 2. 46 CFR subchapters D, H, I, K, L, and T will be amended to require that a certificate of inspection be based on the condition that the vessel meets the requirements of 33 CFR subchapter H and specifically this part.

Foreign vessels that have on board a valid International Ship Security Certificate that attests to the vessel's compliance with International Convention for Safety of Life at Sea, 1974, (SOLAS) and the ISPS Code, part A, and the relevant provisions in the ISPS Code, part B, of will be deemed in compliance with this part, except for those sections otherwise specified. Foreign vessel compliance will be verified during Port State Control verification exams.

The interim rule also affects the Notice of Arrival rule in part 160 of title 33, U.S. Code. These changes provide the Coast Guard with additional information essential to our exercise of Port State Control functions and to our imposition of control and compliance measures on foreign vessels bound for a port or place in the U.S., consistent with MTSA and with SOLAS regulation XI–2/9. A foreign vessel already covered by the Notice of Arrival rule will have to provide information about its International Ship Security Certificate and its implementation of an approved security plan.

As required by SOLAS Chapter XI–2 Regulation 3 and the ISPS Code, part A, section 5, the Coast Guard has published additional requirements for vessels calling in the U.S. in §§ 104.240 and 104.255 of 33 CFR 104. These sections provide the U.S. requirements for setting and communicating changes in Maritime Security Level, completing Declarations of Security, and additional instructions for all vessels when Maritime Security Level 3 is set.

Waivers

The waiver section details procedures for requesting a waiver for the benefit of vessel owners or operators who find specific requirements of the rulemaking to be unnecessary.

Equivalents

The equivalents section details procedures for requesting an equivalency for specific requirements of the rulemaking. Equivalents are intended to allow vessel owners or operators to provide an alternative provision or arrangement that provides the same level of security as a specific requirement contained within this part.

Alternative Security Program

This part makes provision to allow owners or operators of vessels on domestic voyages only to implement an Alternative Security Program that has been reviewed and accepted by the Commandant (G–MP), to meet the requirements of this part. Alternative Security Programs must be comprehensive and based on a security assessment to demonstrate it meets the intent of each section of this part. Owners or operators are required to implement an appropriate Alternative Security Program in its entirety to be deemed in compliance with this part.

We also strongly encourage industry groups to develop and submit ''model programs,'' which would include a model Vessel Security Plan and assessment of their own. A model program is one that, once submitted and reviewed and approved by Commandant (G–MP), may be used as a template for other vessels in the fleet. However, a Vessel Security Plan constructed using a model plan would still require submission for approval by the Coast Guard.

The process of the review and acceptance of model programs will be the same as the process used for the Alternative Security Program. The submission of a model program will need to include a general assessment for the applicable segment of the industry for which the model program is intended. The submission must also include how owners or operators will implement the model program including performing an operational and vessel-specific assessment and verification of implementation. Once these model programs are accepted, the programs could be used by industry to develop vessel-specific plans and assessments for Coast Guard approval.

Evaluating Submissions of Waivers, Equivalents, and Alternative Security Programs

In our evaluation of waivers, equivalencies, and Alternative Security Programs, the Coast Guard will accept a self-assessment or demonstration using any risk management tools acceptable to the Coast Guard. This demonstration may be requested to show that the proposed waiver, equivalency or Alternative Security Program is at least as effective as that intended by this interim rule.

Owner or Operator Responsibilities

The owner or operator of a vessel is generally responsible for all requirements imposed by this part. These requirements include ensuring the following: The performance of all vessel security duties; defining the security organizational structure for each vessel; providing each person(s) exercising security duties or responsibilities within that structure with the support needed to fulfill those obligations; that personnel receive training, drills, and exercises enabling them to perform their assigned security duties; and that adequate coordination of security issues between vessels and facilities take place.

Company Security Officer (CSO)

This interim rule requires that each vessel owner or operator appoint a Company Security Officer, designated in writing, for their fleet of vessels or for each individual vessel that is owned or operated by the company. The Company Security Officer may be a full time or collateral position. A Company Security Officer may perform other duties within the owner's or operator's organization provided he or she is able to perform the duties and responsibilities required of the Company Security Officer. The Company Security Officer may also be the Vessel Security Officer, provided he or she is also able to perform the duties and responsibilities required of the Company Security Officer. Generally, this provision is for vessels operating on restricted routes in a single COTP zone and for unmanned vessels.

The Company Security Officer must have a general knowledge in a range of issues, such as company security organization, relevant international laws, domestic regulations, current security threats and patterns, risk assessment methodology, and in conducting audits, inspections, and control procedures.

The CSO may delegate the duties imposed on the Company Security Officer by this part, but remains responsible for the performance of those duties. The most important duties of the Company Security Officer include ensuring that: A Vessel Security Assessment is conducted; a Vessel Security Plan is developed, approved, maintained, and implemented; the Vessel Security Plan is modified when necessary; vessel security activities are audited as appropriate; problems identified by audits or inspections are addressed in a timely fashion; adequate security training; and communication and cooperation between the vessel and facilities.

Vessel Security Officer (VSO)

This interim rule requires that a Vessel Security Officer is designated in writing for each vessel. The Vessel Security Officer must have a general knowledge in a range of issues, such as security administration, relevant international laws, domestic regulations, current security threats and patterns, risk assessment methodology, and in conducting audits, inspections, and control procedures. The most important duties that must be performed by the Vessel Security Officer includes implementing a Vessel Security Plan; ensuring that adequate training is provided to vessel personnel; ensuring the vessel is operating in accordance with the plan and in continuous compliance with part 104; and periodically auditing and updating the Vessel Security Assessment and Vessel Security Plan. The Vessel Security Officer may assign security duties to other vessel personnel; however, the Vessel Security Officer remains responsible for security duties.

Training

Required training for vessel personnel must be specified in the Vessel Security Plan. Specific security training courses for the Vessel Security Officer and vessel personnel will not be required by the Coast Guard. While formal training may be necessary, we will not mandate specifics. Vessel owners or operators must certify that security personnel are, in fact, properly trained to perform their duties. The types of training required must also be consistent with the training requirements described in this subpart. The Vessel Security Officer is also required to ensure that vessel security persons possess necessary training to maintain the overall security of the facility.

Drills and Exercises Requirements

Exercises are required to ensure the adequacy of the Facility Security Plans and are required to be conducted at least once each calendar year, with not more than 18 months between exercises. Drills, which are smaller in scope than exercises, must be conducted at least every 3 months.

Exercises may be vessel specific, or as part of a cooperative exercise program with applicable Facility and Vessel Security Plans or Port exercises. Exercises for security may be combined with other required exercises, as appropriate.

Security Systems and Equipment Maintenance

Procedures and/or policies must be developed and implemented to ensure security systems and equipment are tested and operated in accordance with the instructions of the manufacturer and ready for use.

Security Measures

Security measures for specific activities must be scalable in order to provide increasing levels of security at increasing Maritime Security (MARSEC) Levels. An effective security program relies on detailed procedures that clearly indicate the preparation and prevention activities that will occur at each threat level and the organizations, or personnel, who are responsible for carrying out those activities. Security Measures must be developed for the following activities:

- Security measures for access control;

- Security measures for restricted areas;
- Security measures for handling cargo;
- Security measures for delivery of vessel stores and bunkers; and
- Security measures for monitoring.

Security Incident Procedures

Each vessel owner or operator must develop security incident procedures for responding to transportation security incidents. The security incident procedures must explain the vessel's reaction to an emergency, including the notification and coordination with local, State, and federal authorities and Under Secretary of Emergency Preparedness and Response. The security incident procedures must also explain actions for securing the vessel and evacuating passengers and crew.

Declaration of Security (DoS)

A Declaration of Security provides a means for ensuring that critical security concerns are properly addressed prior to and during a vessel-to-facility interface. The Declaration of Security addresses security by delineating responsibilities for security arrangements and procedures between a vessel and a facility. This requirement is similar to the existing U.S. practice for vessel-to-facility oil transfer proceedings.

Only certain passenger vessels and vessels carrying Certain Dangerous Cargoes will complete a Declaration of Security for every evolution regardless of the Maritime Security Level. At Maritime Security Levels 2 and 3, all vessels and facilities would need to complete the Declaration of Security.

Vessels that frequently call on the same facility may execute a continuing Declaration of Security—a single Declaration of Security for multiple visits.

All Declarations of Security must state the security activities for which the facility and vessel are responsible during vessel-to-vessel or vessel-to-facility interfaces. Declarations of Security must be kept as part of the vessel's recordkeeping.

Vessels that are operating at a higher Security Level than the port that the vessel is calling at may request a Declaration of Security with the facility, and the facility must complete a Declaration of Security with the vessel. Additionally, a facility may request that a vessel complete a Declaration of Security with the facility as appropriate for that facility's Security Plan or direction of the COTP. If the facility owner or operator requires a Declaration of Security, the vessel must comply. The conditions under which a vessel may request a Declaration of Security from the facility must be included in the Vessel Security Plan.

Vessel Security Assessment (VSA)

This interim rule requires all vessels covered by part 104 to conduct a Vessel Security Assessment, which is an essential and integral part of the process for developing and updating the required Vessel Security Plan. The Vessel Security Assessment is based in part on an on-scene security survey, which details the overall assessment of the vessel including any existing security measures, and includes a written report documenting the vulnerabilities and mitigation strategies of the vessel. As discussed in the interim rule ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), 33 CFR 101.510 lists the various assessment tools that may be used to meet the risk assessment requirements in parts 104 through 106 of this subchapter. The assessment tools listed are sufficient to enable the development of the Vessel Security Program. This list is also provided to ensure that the Vessel Security Assessment is consistent with other modal assessments. We are working with other agencies to develop assessment tools that are sensitive to the diversity of the National Marine Transportation System to ensure consistent levels of security throughout the entire System. The designated Company Security Officer must conduct the on-scene survey by examining and evaluating existing vessel protective measures, procedures, and operations. Using the information obtained in the on-scene survey, the Company Security Officer must ensure the completion ot the Vessel Security Assessment. The Vessel Security Assessment identifies and evaluates, in writing, existing security measures; key vessel operations; the likelihood of possible threats to key vessel operations; and weaknesses, including human factors in the infrastructure, policies, and procedures of the vessel.

It also includes a written summary of how the assessment was conducted; each vulnerability found during the assessment; and countermeasures that could be used to address each vulnerability. The Vessel Security Assessment must be reviewed and updated each time the Vessel Security Plan is revised and when the Vessel Security Plan is submitted for re-approval every 5 years.

Vessel Security Plan (VSP)

This interim rule requires each vessel owner or operator to develop an effective Vessel Security Plan that incorporates detailed preparedness, prevention, and response activities for each Maritime Security Level, along with the organizations or personnel responsible for carrying out those activities. The requirements discussed in this part are consistent with requirements in the ISPS Code.

The Vessel Security Plan is a document, written in English, that is prepared in response to the Vessel Security Assessment and approved by the Coast Guard. A single Vessel Security Plan can apply to more than one vessel to the extent that they share physical characteristics and operations.

In addition to other things, the Vessel Security Plan must: respond specifically to any recommendations made by the Vessel Security Assessment; describe how, at each Maritime Security Level, the vessel will apply the security measures required in these regulations; state the Master's authority; must detail the organizational structure of security for the vessel; detail the duties and responsibilities of all vessel and company personnel with a security role; detail the vessel's relationship with the Company, facilities, other vessels, and relevant authorities with security responsibility; provide regular audit of the Vessel Security Plan and its amendment in response to experience or changing circumstances; and establish the procedures needed to assess the continuing effectiveness of security procedures and all security related equipment and systems, including procedures for identifying and responding to equipment or systems failure or malfunction.

The responsibility for barge security lies not only with the barge owner or operator but also with the towing vessel, fleeting facility, and facility where the barge is moored. Hence, security plans for vessels and facilities that interface with unmanned vessels (*e.g.* unmanned barges) must include additional provisions to address the risk of the unmanned vessels that they will receive or handle. Given the simple design of a typical barge and the wide range of products that may be transported within a single tow or moored within a single fleeting area, the security assessments of facilities and towing vessels should include the barge sizes and cargos that would result in a worst-case scenario (*i.e.* greatest potential consequence due to cargo volatility, toxicity, or environmental damage), and the most probable vulnerability scenarios.

Vessel and facility security plans must address how the vessel or facility will apply the necessary security measures when engaged with a barge.

Therefore, the security plans need to include procedures and security measures to protect the towing vessel or the facility that controls the barge(s). In addition, the security plans need to include procedures for interfacing with other vessels and facilities, including how it will transfer custody of the barge to the next facility or towing vessel.

Facilities and towing vessels are not required to have a copy of the security plan for each barge it handles if the facility or towing vessel security plan includes appropriate procedures and security measures to ensure the security of all barges in its care. It is the responsibility of all Security Officers (barge's Vessel Security Officer, the towing vessel's Vessel Security Officer, the Company Security Officer, and the Facility Security Officer) to coordinate plans and ensure, possibly through a written contract or other agreement, that each party that receives the barge understands and is capable of implementing specific security measures for it. This may entail providing a copy of the applicable sections of a barge's Vessel Security Plan to the parties involved.

As a result, a barge's Vessel Security Plan may be minimal in content, containing personnel contact information and an assessment of the worst-case damage it might produce. The security plan must explain how security will be coordinated with each towing vessel, fleeting facility, and facility that handles the barge. Existing plans and procedures, such as vessel response plans, may be used or referenced as part of the Vessel Security Plan.

Like other Vessel Security Plans, the barge's Vessel Security Plan must also include specific security incident procedures to mitigate the consequences of damage and/or a release of the barge's cargo.

Foreign vessels required to comply with SOLAS are not required to submit their Vessel Security Plans to the Coast Guard for approval. Pursuant to SOLAS and the ISPS Code, these plans are required to be approved by the flag administration or Recognized Security Organization (RSO). Approval can only be granted by the flag administration or the RSO after verification that the Vessel Security Plan meets the requirements of SOLAS and the ISPS Code, part A, taking into account the ISPS Code, part B. Even so, the Coast Guard will verify that foreign SOLAS vessels have an approved Vessel Security Plan that fully complies with SOLAS and the ISPS Code, and thereby meets the requirements of this part, through an aggressive Port State Control program. Noncompliance will subject the vessel to a range of control and compliance measures, which could include denial of entry into port. If, during an expanded examination, those sections of the Vessel Security Plan the port state is allowed to review are not written in English, a vessel may be delayed while translator services are acquired. To properly reflect the full range of legal authorities to control vessel movement in such cases, and without affecting other legal authorities, this rule amends the authority provision in 33 CFR part 165 to cite the anti-terrorism authorities in 33 U.S.C. 1226 as an additional basis for taking action under 33 CFR part 165.

However, in certain cases foreign vessel owners or operators will be required to submit the Vessel Security Plan to the U.S. for approval. Generally, these vessels fall into three categories: (1) A commercial vessel meeting the applicability standards of these regulations from a nation not signatory to SOLAS; (2) Canadian commercial vessels operating solely on the Great Lakes that (a) are greater than 100 gross register tons or (b) carry more than 12 passengers; and (3) other foreign commercial vessels meeting the applicability standards of this part, but below 500 gross tonnage, ITC and above 100 gross register tons.

Submission and Approval of Security Plan

The Vessel Security Plan, including the Vessel Security Assessment report, must be submitted to and reviewed by the Commanding Officer, Marine Safety Center (MSC). Once the MSC finds that the plan meets the security requirements in part 104, the submitter will receive an approval letter that may contain conditions of the approval.

If the MSC requires more time than is indicated in the requirements of the interim rule to review a submitted Vessel Security Plan, the MSC may return to the submitter a written acknowledgement stating that the Coast Guard is currently reviewing the Vessel Security Plan submitted for approval, and that the vessel may continue to operate so long as the vessel remains in compliance with the submitted Vessel Security Plan.

If the MSC finds that the Vessel Security Plan does not meet the security requirements, the plans would be returned to the vessel with a disapproval letter with an explanation of why the plan does not meet the part 104 requirements.

The Coast Guard must review Vessel Security Plans every time:

- The Vessel Security Assessment is altered;
- Failures are identified during an exercise of the Vessel Security Plan; and
- There is a change in ownership or operational control of the vessel or there are amendments to the Vessel Security Plan.

Existing Regulations

33 CFR part 120, Security of Vessels, currently exists but applies only to cruise ships. Until July 2004, 33 CFR part 120 will remain in effect. Vessels that were required to comply with part 120 will now also be required to meet the requirements of this part including § 104.295, titled Additional requirements—Cruise Ships. The requirements in § 104.295 generally capture the existing requirements in part 120 that are specific for cruise ships and captures additional detail to the requirements of SOLAS Chapter XI–2 and the ISPS Code.

The Coast Guard Notice of Arrival regulation, 33 CFR part 160, is being amended by this interim rule to require the advance submission of additional security related information. This information is essential to assist Coast Guard officials in exercising Port State Control functions, including what control and compliance measures, if any, should be imposed on vessels bound for a port or place in the U.S., consistent with 46 U.S.C. 70103 and 70110 or SOLAS regulation XI–2/9.

The Notice of Arrival amendments also provide an initial indication to the U.S. that owners and operators are taking responsibility for fully complying with the requirements in this part. For example, vessels will be required to provide a statement that the vessel is in compliance with the ISPS Code prior to entry into ports in the U.S. by informing the National Vessel Movement Center of the type and status of its International Ship Security Certificate. Those vessels required to have on board an approved Vessel Security Plan will also have to declare in the Notice of Arrival submission that they are implementing their Vessel Security Plan. Furthermore, because it is not the intent of the ISPS Code to allow consecutive Interim International Ship Security Certificates, the owner or operator of a vessel holding a consecutive Interim International Ship Security Certificate will also be required to provide an explanation as to why the vessel holds a consecutive Interim International Ship Security Certificate prior to entry.

The information we are requiring in this Notice of Arrival amendment contains elements similar to those we mandate to verify compliance with the International Management Code for the Safe Operation of Ships and for

Pollution Prevention. Most of this information will be required only after the new SOLAS amendments and ISPS Code go into effect, in July 2004. However, after January 1, 2004, if a foreign vessel already possesses an International Ship Security Certificate and an approved Vessel Security Plan, we will require it to provide some basic information about the International Ship Security Certificate and declare if it is implementing the Vessel Security Plan. The purpose of collecting this data in the first half of 2004 is to help us gauge international progress toward meeting the July 1, 2004, entry into force date.

Regulatory Assessment

This interim rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of the Department of Homeland Security. A Cost Assessment is available in the docket as indicated under **ADDRESSES.**

Cost Assessment

For the purposes of good business practice or regulations promulgated by other Federal and State agencies, many companies already have spent a substantial amount of money and resources to upgrade and improve security. The costs shown in this assessment do not include the security measures these companies have already taken to enhance security.

We realize that every company engaged in maritime commerce would not implement the interim rule exactly as presented in this assessment. Depending on each company's choices, some companies could spend much less than what is estimated herein while others could spend significantly more. In general, we assume that each company would implement the interim rule based on the type of vessels or facilities it owns or operates and whether it engages in international or domestic trade.

This assessment presents the estimated cost if vessels are operating at Maritime Security Level 1, the current level of operations since the events of September 11, 2001. We also estimated the costs for operating for a brief period at Maritime Security Level 2, an elevated level of security.

We do not anticipate that implementing the interim rule will require additional manning aboard vessels; existing personnel can assume the duties envisioned.

The interim rule will affect about 10,300 U.S. flag SOLAS, domestic (non-SOLAS), and about 70 foreign non-SOLAS vessels.

The estimated cost of complying with the interim rule is Present Value (PV) $1.368 billion (2003–2012, 7 percent discount rate). Approximately PV $248 million of this total is attributable to U.S. flag SOLAS vessels. Approximately PV $1.110 billion is attributable to domestic vessels (non-SOLAS), and PV $10 million is attributable to foreign non-SOLAS vessels. In the first year of compliance, the cost of purchasing equipment, hiring security officers, and preparing paperwork is an estimated $218 million (non-discounted, $42 million for the U.S. flag SOLAS fleet, $175 million for the domestic fleet, $1 million for the foreign non-SOLAS fleet). Following initial implementation, the annual cost of compliance is an estimated $176 million (non-discounted, $32 million for the U.S. flag SOLAS fleet, $143 million for the domestic fleet, $1 million for the foreign non-SOLAS fleet).

For the U.S. flag SOLAS fleet, approximately 52 percent of the initial cost is for hiring Company Security Officers and training personnel, 29 percent is for vessel equipment, 12 percent is for assigning Vessel Security Officers to vessels, and 7 percent is associated with paperwork (Vessel Security Assessment and Vessel Security Plan). Following the first year, approximately 72 percent of the cost is for Company Security Officers and personnel training, 3 percent is for vessel equipment, 10 percent is for drilling, 15 percent is for Vessel Security Officers, and less than 1 percent is associated with paperwork. Company Security Officers and training are the primary cost drivers for U.S. flag SOLAS vessels.

For the domestic fleet, approximately 51 percent of the initial cost is for hiring Company Security Officers and training personnel, 29 percent is for vessel equipment, 14 percent is for assigning Vessel Security Officers to vessels, and 6 percent is associated with paperwork (Vessel Security Assessments and Vessel Security Plans). Following the first year, approximately 61 percent of the cost is for Company Security Officers and training, 6 percent is for vessel equipment, 11 percent is for drilling, 22 percent is for VSOs, and less than 1 percent is associated with paperwork. As with SOLAS vessels, Company Security Officers are the primary cost driver for the domestic fleet.

We estimated approximately 135,000 burden hours for paperwork during the first year of compliance (33,000 hours for U.S.-flag SOLAS, 101,000 hours for the domestic fleet, 1,000 hours for the foreign non-SOLAS fleet). We estimated approximately 12,000 burden hours annually following full implementation of the interim rule (2,000 hours for U.S.-flag SOLAS, 10,000 hours for the domestic fleet, less than 1,000 hours for the foreign non-SOLAS fleet).

We also estimated the annual cost for going to an elevated security level, Maritime Security Level 2, in response to increased threats. The duration of the increased security level will be entirely dependent on intelligence received. For this assessment, we estimated costs for Maritime Security Level 2 using the following assumptions: all ports will go to Maritime Security Level 2 at once, each elevation will last 21 days, and the elevation will occur twice a year. The estimated cost associated with these conditions is $235 million annually.

Benefit Assessment

This interim rule is one of six interim rules that implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf (OCS) facilities, and AIS. The Coast Guard used the National Risk Assessment Tool (N–RAT) to assess benefits that would result from increased security for vessels, facilities, OCS facilities, and ports. The N–RAT considers threat, vulnerability, and consequences for several maritime entities in various security-related scenarios. For a more detailed discussion on the N–RAT and how we employed this tool, refer to *Applicability of National Maritime Security Initiatives* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**. For this benefit assessment, the Coast Guard used a team to calculate a risk score for each entity and scenario before and after the implementation of required security measures. The difference in before and after scores indicated the benefit of the proposed action.

We recognized that the interim rules are a ''family'' of rules that will reinforce and support one another in their implementation. We have ensured, however, that risk reduction that is credited in one rulemaking is not also credited in another. For a more detailed discussion on the benefit assessment and how we addressed the potential to double-count the risk reduced, refer to *Benefit Assessment* in the interim rule

titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

We determined annual risk points reduced for each of the six interim rules using the N–RAT. The benefits are apportioned among the Vessel, Facility, OCS Facility, AMS, and AIS requirements. As shown in Table 1, the implementation of Vessel Security Plans for the affected population reduces 781,285 risk points annually through 2012. The benefits attributable for part 101—General Provisions—were not considered separately since it is an overarching section for all the parts.

TABLE 1.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES

Maritime entity	Annual risk points reduced by rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
Vessels	778,633	3,385	3,385	3,385	1,448
Facilities	2,025	469,686	.....	2,025	.....
OCS Facilities	41	.....	9,903	.....	.....
Port Areas	587	587	.....	129,792	105
Total	781,285	473,659	13,288	135,202	1,553

Once we determined the annual risk points reduced, we discounted these estimates to their present value (7 percent discount rate, 2003–2012) so that they could be compared to the costs. We presented the cost effectiveness, or dollars per risk point reduced, in two ways: first, we compared the first-year cost and first-year benefit because first-year cost is the highest in our assessment as companies develop security plans and purchase equipment. Second, we compared the 10-year PV cost and the 10-year PV benefit. The results of our assessment are presented in Table 2.

TABLE 2.—FIRST-YEAR AND 10-YEAR PV COST AND BENEFIT OF THE INTERIM RULES

Item	Interim rule				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS Plans	AIS *
First-Year Cost (millions)	$218	$1,125	$3	$120	$41
First-Year Benefit	781,285	473,659	13,288	135,202	1,553
First-Year Cost Effectiveness ($/Risk Point Reduced)	$279	$2,375	$205	$890	$26,391
10-Year PV Cost (millions)	$1,368	$5,399	$37	$477	$42
10-Year PV Benefit	5,871,540	3,559,655	99,863	1,016,074	11,671
10-Year PV Cost Effectiveness ($/Risk Point Reduced)	$233	$1,517	$368	$469	$3,624

* Cost less monetized safety benefit.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this interim 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. This interim rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this interim rule is exempt, we have reviewed it for potential economic impacts on small entities. An Initial Regulatory Flexibility Analysis discussing the impact of this interim rule on small entities is available in the docket where indicated under **ADDRESSES.**

U.S. Flag SOLAS Vessels

We estimated that 88 companies that own U.S. flag SOLAS vessels will be affected by the interim rule. We researched these companies and found revenue data for 32 of them (36 percent). The revenue impacts for these vessels are presented in Table 3. In this analysis, we considered the impacts to small businesses during the first year of implementation, when companies will be conducting assessments, developing security plans, and purchasing equipment. We also considered annual revenue impacts following the first year, when companies will have the assessments and plans complete, but will need to conduct quarterly drilling.

TABLE 3.—ESTIMATED REVENUE IMPACTS FOR SMALL BUSINESSES THAT OWN U.S. FLAG SOLAS VESSELS

Percent impact on annual revenue	Initial		Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data	Number of small entities with known revenue data	Percent of small entities with known revenue data
0–3	8	25	8	25
3–5	3	9	3	9

TABLE 3.—ESTIMATED REVENUE IMPACTS FOR SMALL BUSINESSES THAT OWN U.S. FLAG SOLAS VESSELS—Continued

Percent impact on annual revenue	Initial		Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data	Number of small entities with known revenue data	Percent of small entities with known revenue data
5–10	1	3	4	13
10–20	6	19	4	13
20–30	4	13	3	9
30–40	1	3	2	6
40–50	3	9	2	6
>50	6	19	6	19
Total	32	100	32	100

We assume that the remaining 56 entities that did not have revenue data are very small businesses. We assume that the interim rule may have a significant economic impact on these businesses.

Domestic Vessels

We estimated that 1,683 companies that own domestic vessels will be affected by the interim rule. We researched these companies and found revenue data for 822 of them (49 percent). The revenue impacts for these vessels are presented in Table 4. As with U.S. flag SOLAS vessels, we considered the impacts to small businesses during the first year of implementation, when companies will be conducting assessments, developing security plans, and purchasing equipment. We also considered annual revenue impacts following the first year, when companies will have the assessments and plans complete, but will need to conduct quarterly drilling.

TABLE 4.—ESTIMATED REVENUE IMPACTS FOR SMALL BUSINESSES THAT OWN DOMESTIC VESSELS

Percent impact on annual revenue	Initial		Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data	Number of small entities with known revenue data	Percent of small entities with known revenue data
0–3	366	45	393	48
3–5	86	10	87	11
5–10	171	21	170	21
10–20	85	10	64	8
20–30	34	4	37	5
30–40	19	2	16	2
40–50	9	1	16	2
>50	52	6	39	5
Total	822	100	822	100

We assumed that the remaining 861 entities that did not have revenue data are very small businesses. We assumed that the interim rule may have a significant economic impact on these businesses.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Kevin Oditt (G–MP), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.*

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

Collection of Information

This interim rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This interim rule modifies two existing OMB-approved collections—1625–0077 [formerly 2115–0622] and

1625–0100 [formerly 2115–0557]. Summaries of the revised collections follow.

Title: Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077

Summary of the Collection of Information: The Coast Guard requires security assessments and plans for vessels. This interim rule provides a framework to ensure adequate security planning, drilling, and communication procedures by requiring vessels to develop and submit for approval Vessel Security Assessments and Vessel Security Plans.

Need for Information: The primary need for information is to identify the adequate security mitigating measures that will be implemented when needed.

Proposed Use of Information: The information will be used to identify and communicate the security mitigating measures to the Coast Guard and necessary personnel.

Description of the Respondents: The Company Security Officer for owners and operators of the affected vessels or another designated person is responsible for developing the Vessel Security Assessment and the Vessel Security Plan.

Number of Respondents: 2,202 Company Security Officers at the affected companies.

Frequency of Response: Vessel Security Assessments and Vessel Security Plans are to be submitted for approval initially, and will be reviewed annually.

Burden of Response: Development burden for the Vessel Security Assessments and Vessel Security Plans is estimated to be approximately eight to 80 hours depending on the size of the company and the number and types of vessels the company owns. Updating the assessments and plans is estimated to be approximately one to four hours depending on the size of the company and the number and types of vessels the company owns.

Estimate of Total Annual Burden: Vessel Security Assessments and Vessel Security Plans will have a total burden in the initial year of 135,269 hours. Annually, the total burden of the assessments and the plans is 11,700 hours. For a summary of all revisions to this existing OMB-approved collection, refer to *Collection of Information* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Title: Advance Notice of Arrival.

OMB Control Number: 1625–0100.

Summary of the Collection of Information: The Coast Guard requires pre-arrival messages from any vessel entering a port or place in the United States. This interim rule adds the requirement to communicate security-related information about the vessel to the Coast Guard.

Need for Information: The primary need for information is to identify the adequate security mitigating measures that will be implemented when needed.

Proposed Use of Information: The information will be used to identify and communicate the security mitigating measures to the Coast Guard and necessary personnel.

Description of the Respondents: Respondents are owners and operators of vessels that arrive at or depart from a port or place in the United States after departing from foreign ports.

Number of Respondents: The existing OMB-approved collection number of respondents is 10,367. This rule will not increase the number of respondents.

Frequency of Response: The existing OMB-approved collection number of responses is 68,289. This rule will not increase the number of responses.

Burden of Response: The existing OMB-approved collection burden of response is approximately 2.5 hours. Because the already approved Cargo Declaration requirement (Table 160.206(a)(8), per Final Rule of May 22, 2003; USCG–2002–11865; 68 FR 27908) has been suspended, this rule will not have a net increase in the burden.

Estimate of Total Annual Burden: The existing OMB-approved total annual burden is 174,179 hours. This rule will not increase the burden. However, due to an adjustment in the way the Coast Guard calculates the burden, we estimate the total annual burden to be 173,904.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this interim rule to the Office of Management and Budget (OMB) for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for ''emergency processing'' of our request. We received OMB approval for these collections of information on June 16, 2003. They are valid until December 31, 2003.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. We received OMB approval for these collections of information on June 16, 2003. They are valid until December 31, 2003.

Federalism

An interim 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. See the *Federalism* section in the interim rule preamble titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register** for a discussion of our analysis under this Executive Order.

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. This interim rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the U.S. (2 U.S.C. 1503(5)).

Taking of Private Property

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

Civil Justice Reform

This interim 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 interim rule under Executive Order 13045,

Protection of Children from Environmental Health Risks and Safety Risks. While this interim rule is an economically significant rule, it does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

We have analyzed this interim 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. Although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

This interim rule has a positive effect on the supply, distribution, and use of energy. The interim rule provides for security assessments, plans, procedures, and standards, which will prove beneficial for the supply, distribution, and use of energy at increased levels of maritime security.

Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it would likely create obstacles to the foreign commerce of the U.S. However, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the security of the U.S., any obstacles created by the regulation are not considered unnecessary obstacles.

Environment

We have considered the environmental impact of this interim rule and concluded that under figure 2–1, paragraph (34)(a), (34)(c) and (34)(d), of Commandant Instruction M16475.lD, this interim rule is categorically excluded from further environmental documentation. This interim rule concerns security assessments, plans, training, and the establishment of security positions that will contribute to a higher level of marine safety and security for vessels and U.S. ports. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION**.

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this interim rule will be done in conjunction with appropriate state coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

List of Subjects

33 CFR Part 104

Incorporation by reference, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous material transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirement, Vessels, Waterways.

46 CFR Part 2

Marine safety, Maritime security, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 31

Cargo vessels, Inspection and certification, Maritime security.

46 CFR Part 71

Inspection and certification, Maritime security, Passenger vessels.

46 CFR Part 91

Cargo vessels, Inspection and Certification, Maritime security.

46 CFR Part 115

Fire prevention, Inspection and certification, Marine safety, Maritime security, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 126

Cargo vessels, Inspection and certification, Marine safety, Maritime security, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Inspection, Marine safety, Maritime security, Reporting and recordkeeping requirements, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard adds 33 CFR part 104 and amends 33 CFR part 160 and part 165, and 46 CFR parts 2, 31, 71, 91, 115, 126, and 176 as follows:

■ 1. Add part 104 to subchapter H of chapter I title 33 of the CFR to read as follows:

PART 104—VESSEL SECURITY

Subpart A—General

Sec.

104.100 Definitions.
104.105 Applicability.
104.110 Exemptions.
104.115 Compliance dates.
104.120 Compliance documentation.
104.125 Noncompliance.
104.130 Waivers.
104.135 Equivalents.
104.140 Alternative Security Programs.
104.145 Maritime Security (MARSEC) Directive.
104.150 Right to appeal.

Subpart B—Vessel Security Requirements

104.200 Owner or operator.
104.205 Master.
104.210 Company Security Officer (CSO).
104.215 Vessel Security Officer (VSO).
104.220 Company or vessel personnel with security duties.
104.225 Security training for all other vessel personnel.
104.230 Drill and exercise requirements.
104.235 Vessel recordkeeping requirements.
104.240 Maritime Security (MARSEC) Level coordination and implementation.
104.245 Communications.
104.250 Procedures for interfacing with facilities and other vessels.
104.255 Declaration of Security (DoS).
104.260 Security systems and equipment maintenance.
104.265 Security measures for access control.
104.270 Security measures for restricted areas.
104.275 Security measures for handling cargo.
104.280 Security measures for delivery of vessel stores and bunkers.
104.285 Security measures for monitoring.
104.290 Security incident procedures.
104.292 Additional requirements—passenger vessels and ferries.
104.295 Additional requirements—cruise ships.
104.297 Additional requirements—vessels on international voyages.

Subpart C—Vessel Security Assessment (VSA)

104.300 General.
104.305 Vessel Security Assessment (VSA) requirements.
104.310 Submission requirements.

Subpart D—Vessel Security Plan (VSP)

104.400 General.
104.405 Format of the Vessel Security Plan (VSP).
104.410 Submission and approval.
104.415 Amendment and audit.

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.

Subpart A—General

§ 104.100 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

§ 104.105 Applicability.

(a) This part applies to the owner or operator of any:

(1) Mobile Offshore Drilling Unit (MODU), cargo, or passenger vessel subject to the International Convention for Safety of Life at Sea, 1974, (SOLAS);

(2) Foreign commercial vessel greater than 100 gross register tons not subject to SOLAS;

(3) Commercial vessel greater than 100 gross register tons subject to 46 CFR subchapter I, except commercial fishing vessels inspected under 46 CFR part 105;

(4) Vessel subject to 46 CFR subchapter L;

(5) Passenger vessel subject to 46 CFR subchapters H or K;

(6) Other passenger vessel carrying more than 12 passengers that is engaged on an international voyage;

(7) Barge subject to 46 CFR subchapters D or O;

(8) Barge subject to 46 CFR subchapter I that carries Certain Dangerous Cargoes in bulk, or that is engaged on an international voyage;

(9) Tankship subject to 46 CFR subchapters D or O; and

(10) Towing vessel greater than 8 meters in registered length that is engaged in towing a barge or barges subject to this part.

(b) An owner or operator of any vessel not covered in paragraph (a) of this section is subject to parts 101 through 103 of this subchapter.

(c) Foreign vessels that have on board a valid International Ship Security Certificate (ISSC) that attests to the vessel's compliance with SOLAS Chapter XI–2 and the ISPS Code, part A (Incorporated by reference, see § 101.115 of this chapter), and having taken into account the relevant provisions in the ISPS Code, part B, will be deemed to be in compliance with this part, except for §§ 104.240, 104.255, 104.292, and 104.295 as appropriate.

(d) Except pursuant to international treaty, convention, or agreement to which the U.S. is a party, this part does not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the U.S. and that is in:

(1) Innocent passage through the territorial sea of the U.S.; or

(2) Transit through the navigable waters of the U.S. that form a part of an international strait.

§ 104.110 Exemptions.

This part does not apply to warships, naval auxiliaries or other vessels owned or operated by a government and used only on government non-commercial service.

§ 104.115 Compliance dates.

(a) On or before December 29, 2003, each vessel owner or operator must submit to the Commanding Officer, Marine Safety Center for each vessel the Vessel Security Plan described in subpart D of this part for review and approval.

(b) On or before June 30, 2004, each vessel must be operating in compliance with this part.

(c) On or before July 1, 2004, foreign vessels must carry on board a valid International Ship Security Certificate that certifies that the verifications required by Section 19.1 of part A of the ISPS Code (Incorporated by reference, see § 101.115 of this chapter) have been completed, that the vessel meets the applicable requirements of SOLAS Chapter XI–2 (Incorporated by reference, see § 101.115 of this chapter) and the ISPS Code, part A, and that the vessel is provided with an approved security plan.

§ 104.120 Compliance documentation.

(a) Each vessel owner or operator subject to this part must ensure, no later than 1 July 2004, that copies of the following documents are carried on board the vessel and are made available to the Coast Guard upon request:

(1) The approved Vessel Security Plan (VSP) and any approved revisions or amendments thereto, and a letter of approval from the Commanding Officer, Marine Safety Center (MSC);

(2) The VSP submitted for approval and a current acknowledgement letter from the Commanding Officer, MSC, stating that the Coast Guard is currently reviewing the VSP submitted for approval, and that the vessel may continue to operate so long as the vessel remains in compliance with the submitted plan;

(3) For vessels operating under a Coast Guard-approved Alternative Security Program as provided in § 104.140, a copy of the Alternative Security Program the vessel is using and a letter signed by the vessel owner or operator, stating which Alternative Security Program the vessel is using and certifying that the vessel is in full compliance with that program; or

(4) For foreign vessels, a valid International Ship Security Certificate that attests to the vessel's compliance with SOLAS Chapter XI–2 and the ISPS Code, part A (Incorporated by reference, see § 101.115 of this subchapter), and having taken into account the relevant provisions in the ISPS Code, part B.

(b) Each owner or operator of an unmanned vessel subject to this part must maintain the documentation described in paragraphs (a)(1), (2), or (3) of this section. The letter required by each of those paragraphs must be carried on board the vessel. The plan or program required by each of those paragraphs must not be carried on board the vessel, but must be maintained in a secure location. During scheduled inspections, the plan or program must be made available to the Coast Guard upon request.

§ 104.125 Noncompliance.

When a vessel is not in compliance with the requirements of this part, the vessel owner or operator must notify the cognizant COTP and request a waiver to continue operations.

§ 104.130 Waivers.

Any vessel owner or operator may apply for a waiver of any requirement of this part that the owner or operator considers unnecessary in light of the nature or operating conditions of the vessel. A request for a waiver must be submitted in writing with justification to the Commandant (G–MP) at 2100 Second St., SW., Washington, DC 20593. The Commandant (G–MP) may require the vessel owner or operator to provide additional data for determining the validity of the requested waiver. The Commandant (G–MP) may grant, in writing, a waiver with or without conditions only if the waiver will not reduce the overall security of the vessel, its passengers, its crew, or its cargo, or facilities or ports that the vessel may visit.

§ 104.135 Equivalents.

For any measure required by this part, the vessel owner or operator may

propose an equivalent as provided in § 101.130 of this subchapter.

§ 104.140 Alternative Security Programs.

A vessel owner or operator may use an Alternative Security Program as approved under § 101.120 of this subchapter if:

(a) The Alternative Security Program is appropriate to that class of vessel;

(b) The vessel does not engage on international voyages; and

(c) The Alternative Security Program is implemented in its entirety.

§ 104.145 Maritime Security (MARSEC) Directive.

Each vessel owner or operator subject to this part must comply with any instructions contained in a MARSEC Directive issued under § 101.405 of this subchapter.

§ 104.150 Right to appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal as described in § 101.420 of this subchapter.

Subpart B—Vessel Security Requirements

§ 104.200 Owner or operator.

(a) Each vessel owner or operator must ensure that the vessel operates in compliance with the requirements of this part.

(b) For each vessel, the vessel owner or operator must:

(1) Define the security organizational structure for each vessel and provide all personnel exercising security duties or responsibilities within that structure with the support needed to fulfill security obligations;

(2) Designate, in writing, by name or title, a Company Security Officer (CSO), a Vessel Security Officer (VSO) for each vessel, and identify how those officers can be contacted at any time;

(3) Ensure personnel receive training, drills, and exercises enabling them to perform their assigned security duties;

(4) Ensure vessel security records are kept;

(5) Ensure that adequate coordination of security issues takes place between vessels and facilities; this includes the execution of a Declaration of Security (DoS);

(6) Ensure coordination of shore leave for vessel personnel or crew change-out, as well as access through the facility of visitors to the vessel (including representatives of seafarers' welfare and labor organizations), with facility operators in advance of a vessel's arrival;

(7) Ensure security communication is readily available;

(8) Ensure coordination with and implementation of changes in Maritime Security (MARSEC) Level;

(9) Ensure that security systems and equipment are installed and maintained;

(10) Ensure that vessel access, including the embarkation of persons and their effects, are controlled;

(11) Ensure that restricted areas are controlled;

(12) Ensure that cargo and vessel stores and bunkers are handled in compliance with this part;

(13) Ensure restricted areas, deck areas, and areas surrounding the vessel are monitored;

(14) Provide the Master, or for vessels on domestic routes only, the CSO, with the following information:

(i) Parties responsible for appointing vessel personnel, such as vessel management companies, manning agents, contractor, concessionaires (for example, retail sales outlets, casinos, etc.);

(ii) Parties responsible for deciding the employment of the vessel, including time or bareboat charters or any other entity acting in such capacity; and

(iii) In cases when the vessel is employed under the terms of a charter party, the contract details of those documents, including time or voyage charters; and

(15) Give particular consideration to the convenience, comfort, and personal privacy of vessel personnel and their ability to maintain their effectiveness over long periods.

§ 104.205 Master.

(a) Nothing in this part is intended to permit the Master to be constrained by the Company, the vessel owner or operator, or any other person, from taking or executing any decision which, in the professional judgment of the Master, is necessary to maintain the safety and security of the vessel. This includes denial of access to persons—except those identified as duly authorized by the cognizant government authority—or their effects, and refusal to load cargo, including containers or other closed cargo transport units.

(b) If, in the professional judgment of the Master, a conflict between any safety and security requirements applicable to the vessel arises during its operations, the Master may give precedence to measures intended to maintain the safety of the vessel, and take such temporary security measures as seem best under all circumstances. In such cases:

(1) The Master must, as soon as practicable, inform the nearest COTP. If the vessel is on a foreign voyage, the Master must promptly inform the Coast Guard at 1–800–424–8802, direct telephone at 202–267–2675, fax at 202–267–2165, TDD at 202–267–4477, or E-mail at *1st-nrcinfo@comdt.uscg.mil* and if subject to the jurisdiction of a foreign government, the relevant maritime authority of that foreign government;

(2) The temporary security measures must, to the highest possible degree, be commensurate with the prevailing Maritime Security (MARSEC) Level; and

(3) The owner or operator must ensure that such conflicts are resolved to the satisfaction of the cognizant COTP, or for vessels on international voyages, the Commandant (G-MP), and that the possibility of recurrence is minimized.

§ 104.210 Company Security Officer (CSO).

(a) *General.* (1) Each vessel owner or operator must designate in writing a CSO.

(2) A vessel owner or operator may designate a single CSO for all its vessels to which this part applies, or may designate more than one CSO, in which case the owner or operator must clearly identify the vessels for which each CSO is responsible.

(3) A CSO may perform other duties within the owner or operator's organization, provided he or she is able to perform the duties and responsibilities required of a CSO.

(4) The CSO may delegate duties required by this part, but remains responsible for the performance of those duties.

(b) *Qualifications.* (1) The CSO must have general knowledge, through training or equivalent job experience, in the following:

(i) Security administration and organization of the company's vessel(s);

(ii) Vessel, facility, and port operations relevant to that industry;

(iii) Vessel and facility security measures, including the meaning and the consequential requirements of the different Maritime Security (MARSEC) Levels;

(iv) Emergency preparedness and response and contingency planning;

(v) Security equipment and systems and their operational limitations;

(vi) Methods of conducting audits, inspection and control and monitoring techniques; and

(vii) Techniques for security training and education, including security measures and procedures.

(2) In addition to knowledge and training in paragraph (b)(1) of this section, the CSO must have general knowledge through training or equivalent job experience in the following, as appropriate:

(i) Relevant international conventions, codes, and recommendations;

(ii) Relevant government legislation and regulations;
(iii) Responsibilities and functions of other security organizations;
(iv) Methodology of Vessel Security Assessment;
(v) Methods of vessel security surveys and inspections;
(vi) Instruction techniques for security training and education, including security measures and procedures;
(vii) Handling sensitive security information and security related communications;
(viii) Knowledge of current security threats and patterns;
(ix) Recognition and detection of dangerous substances and devices;
(x) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;
(xi) Techniques used to circumvent security measures;
(xii) Methods of physical screening and non-intrusive inspections;
(xiii) Security drills and exercises, including drills and exercises with facilities; and
(xiv) Assessment of security drills and exercises.
(c) *Responsibilities.* In addition to those responsibilities and duties specified elsewhere in this part, the CSO must, for each vessel for which he or she has been designated:
(1) Keep the vessel apprised of potential threats or other information relevant to its security;
(2) Ensure a Vessel Security Assessment (VSA) is carried out;
(3) Ensure a Vessel Security Plan (VSP) is developed, approved, and maintained;
(4) Ensure the VSP is modified when necessary;
(5) Ensure vessel security activities are audited;
(6) Arrange for Coast Guard inspections under 46 CFR part 2;
(7) Ensure the timely or prompt correction of problems identified by audits or inspections;
(8) Enhance security awareness and vigilance within the owner's or operator's organization;
(9) Ensure relevant personnel receive adequate security training;
(10) Ensure communication and cooperation between the vessel and the port and facilities with which the vessel interfaces;
(11) Ensure consistency between security requirements and safety requirements;
(12) Ensure that when sister-vessel or fleet security plans are used, the plan for each vessel reflects the vessel-specific information accurately;
(13) Ensure compliance with an Alternative Security Program or equivalents approved under this subchapter, if appropriate; and
(14) Ensure security measures give particular consideration to the convenience, comfort, and personal privacy of vessel personnel and their ability to maintain their effectiveness over long periods.

§ 104.215 Vessel Security Officer (VSO).

(a) *General.* (1) A VSO may perform other duties within the owner's or operator's organization, provided he or she is able to perform the duties and responsibilities required of the VSO for each such vessel.
(2) For manned vessels, the VSO must be a member of the crew.
(3) For unmanned vessels, the same person may serve as the VSO for more one than one unmanned vessel. If a person serves as the VSO for more than one unmanned vessel, the name of each unmanned vessel for which he or she is the VSO must be listed in the Vessel Security Plan (VSP).
(4) The VSO of any unmanned barge and the VSO of any towing vessel interfacing with the barge must coordinate and ensure the implementation of security measures applicable to both vessels during the period of their interface.
(5) The VSO may assign security duties to other vessel personnel; however, the VSO remains responsible for these duties.
(b) *Qualifications.* The VSO must have general knowledge, through training or equivalent job experience, in the following:
(1) Those items listed in § 104.210 (b)(1) and (b)(2) of this part;
(2) Vessel layout;
(3) The VSP and related procedures, including scenario-based response training;
(4) Crowd management and control techniques;
(5) Operations of security equipment and systems; and
(6) Testing and calibration of security equipment and systems, and their maintenance while at sea.
(c) *Responsibilities.* In addition to those responsibilities and duties specified elsewhere in this part, the VSO must, for each vessel for which he or she has been designated:
(1) Regularly inspect the vessel to ensure that security measures are maintained;
(2) Ensure maintenance and supervision of the implementation of the VSP, and any amendments to the VSP;
(3) Ensure the coordination and handling of cargo and vessel stores and bunkers in compliance with this part;
(4) Propose modifications to the VSP to the Company Security Officer (CSO);
(5) Ensure that any problems identified during audits or inspections are reported to the CSO, and promptly implement any corrective actions;
(6) Ensure security awareness and vigilance on board the vessel;
(7) Ensure adequate security training for vessel personnel;
(8) Ensure the reporting and recording of all security incidents;
(9) Ensure the coordinated implementation of the VSP with the CSO and the relevant Facility Security Officer, when applicable;
(10) Ensure security equipment is properly operated, tested, calibrated and maintained; and
(11) Ensure consistency between security requirements and the proper treatment of vessel personnel affected by those requirements.

§ 104.220 Company or vessel personnel with security duties.

Company and vessel personnel responsible for security duties must have knowledge, through training or equivalent job experience, in the following, as appropriate:
(a) Knowledge of current security threats and patterns;
(b) Recognition and detection of dangerous substances and devices;
(c) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;
(d) Techniques used to circumvent security measures;
(e) Crowd management and control techniques;
(f) Security related communications;
(g) Knowledge of emergency procedures and contingency plans;
(h) Operation of security equipment and systems;
(i) Testing and calibration of security equipment and systems, and their maintenance while at sea;
(j) Inspection, control, and monitoring techniques;
(k) Relevant provisions of the Vessel Security Plan (VSP);
(l) Methods of physical screening of persons, personal effects, baggage, cargo, and vessel stores; and
(m) The meaning and the consequential requirements of the different Maritime Security (MARSEC) Levels.

§ 104.225 Security training for all other vessel personnel.

All other vessel personnel, including contractors, whether part-time, full-time, temporary, or permanent, must have knowledge of, through training or equivalent job experience in the following:

(a) Relevant provisions of the Vessel Security Plan (VSP);

(b) The meaning and the consequential requirements of the different Maritime Security (MARSEC) Levels, including emergency procedures and contingency plans;

(c) Recognition and detection of dangerous substances and devices;

(d) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security; and

(e) Techniques used to circumvent security measures.

§ 104.230 Drill and exercise requirements.

(a) *General.* Drills and exercises must test the proficiency of vessel personnel in assigned security duties at all Maritime Security (MARSEC) Levels and the effective implementation of the Vessel Security Plan (VSP). They must enable the Vessel Security Officer (VSO) to identify any related security deficiencies that need to be addressed.

(b) *Drills.* (1) The VSO must ensure that at least one security drill is conducted at least every 3 months, except when a vessel is out of service due to repairs or seasonal suspension of operation provided that in such cases a drill must be conducted within one week of the vessel's reactivation. Security drills may be held in conjunction with non-security drills where appropriate.

(2) Drills must test individual elements of the VSP, including response to security threats and incidents. Drills should take into account the types of operations of the vessel, vessel personnel changes, and other relevant circumstances. Examples of drills include unauthorized entry to a restricted area, response to alarms, and notification of law enforcement authorities.

(3) If the vessel is moored at a facility on the date the facility has planned to conduct any drills, the vessel may, but is not required to, participate in the facility's scheduled drill.

(4) Drills must be conducted within one week whenever the percentage of vessel personnel with no prior participation in a vessel security drill on that vessel exceeds 25 percent.

(c) *Exercises.* (1) Exercises must be conducted at least once each calendar year, with no more than 18 months between exercises.

(2) Exercises may be:

(i) Full scale or live;

(ii) Tabletop simulation or seminar;

(iii) Combined with other appropriate exercises; or

(iv) A combination of the elements in paragraphs (c)(2)(i) through (iii) of this section.

(3) Exercises may be vessel-specific or part of a cooperative exercise program to exercise applicable facility and vessel security plans or comprehensive port exercises.

(4) Each exercise must test communication and notification procedures, and elements of coordination, resource availability, and response.

(5) Exercises are a full test of the security program and must include the substantial and active participation of relevant company and vessel security personnel, and may include facility security personnel and government authorities depending on the scope and the nature of the exercises.

§ 104.235 Vessel recordkeeping requirements.

(a) Unless otherwise specified in this section, the Vessel Security Officer must keep records of the activities as set out in paragraph (b) of this section for at least 2 years and make them available to the Coast Guard upon request.

(b) Records required by this section may be kept in electronic format. If kept in an electronic format, they must be protected against unauthorized deletion, destruction, or amendment. The following records must be kept:

(1) *Training.* For each security training session, the date of each session, duration of session, a description of the training, and a list of attendees;

(2) *Drills and exercises.* For each drill or exercise, the date held, description of drill or exercise, list of participants; and any best practices or lessons learned which may improve the Vessel Security Plan (VSP);

(3) *Incidents and breaches of security.* Date and time of occurrence, location within the port, location within the vessel, description of incident or breaches, to whom it was reported, and description of the response;

(4) *Changes in Maritime Security (MARSEC) Levels.* Date and time of notification received, and time of compliance with additional requirements;

(5) *Maintenance, calibration, and testing of security equipment.* For each occurrence of maintenance, calibration, and testing, the date and time, and the specific security equipment involved;

(6) *Security threats.* Date and time of occurrence, how the threat was communicated, who received or identified the threat, description of threat, to whom it was reported, and description of the response;

(7) *Declaration of Security (DoS).* Manned vessels must keep on board a copy of the last 10 DoSs and a copy of each continuing DoS for at least 90 days after the end of its effective period; and

(8) *Annual audit of the VSP.* For each annual audit, a letter certified by the VSO stating the date the audit was completed.

(c) Any records required by this part must be protected from unauthorized access or disclosure.

§ 104.240 Maritime Security (MARSEC) Level coordination and implementation.

(a) The vessel owner or operator must ensure that, prior to entering a port, all measures are taken that are specified in the Vessel Security Plan (VSP) for compliance with the MARSEC Level in effect for the port.

(b) When notified of an increase in the MARSEC Level, the vessel owner or operator must ensure:

(1) If a higher MARSEC Level is set for the port in which the vessel is located or is about to enter, the vessel complies, without undue delay, with all measures specified in the VSP for compliance with that higher MARSEC Level;

(2) The COTP is notified as required by § 101.300(c) when compliance with the higher MARSEC Level has been implemented; and

(3) For vessels in port, that compliance with the higher MARSEC Level has taken place within 12 hours of the notification.

(c) For MARSEC Levels 2 and 3, the Vessel Security Officer must brief all vessel personnel of identified threats, emphasize reporting procedures, and stress the need for increased vigilance.

(d) An owner or operator whose vessel is not in compliance with the requirements of this section must inform the COTP and obtain approval prior to entering any port, prior to interfacing with another vessel or with a facility or to continuing operations.

(e) For MARSEC Level 3, in addition to the requirements in this part, a vessel owner or operator may be required to implement additional measures, pursuant to 33 CFR part 6, 160 or 165, as appropriate, which may include but are not limited to:

(1) Arrangements to ensure that the vessel can be towed or moved if deemed necessary by the Coast Guard;

(2) Use of waterborne security patrol;

(3) Use of armed security personnel to control access to the vessel and to deter, to the maximum extent practical, a TSI; or

(4) Screening the vessel for the presence of dangerous substances and devices underwater or other threats.

§ 104.245 Communications.

(a) The Vessel Security Officer must have a means to effectively notify vessel

personnel of changes in security conditions on board the vessel.

(b) Communications systems and procedures must allow effective and continuous communication between the vessel security personnel, facilities interfacing with the vessel, vessels interfacing with the vessel, and national or local authorities with security responsibilities.

(c) Communication systems and procedures must enable vessel personnel to notify, in a timely manner, shore side authorities or other vessels of a security threat or incident on board.

§ 104.250 Procedures for interfacing with facilities and other vessels.

(a) The vessel owner or operator must ensure that there are measures for interfacing with facilities and other vessels at all MARSEC Levels.

(b) For each U.S. flag vessel that calls on foreign ports or facilities, the vessel owner or operator must ensure procedures for interfacing with those ports and facilities are established.

§ 104.255 Declaration of Security (DoS).

(a) Each vessel owner or operator must ensure procedures are established for requesting a DoS and for handling DoS requests from a facility or other vessel.

(b) At MARSEC Level 1, the Master or Vessel Security Officer (VSO), or their designated representative, of any cruise ship or manned vessel carrying Certain Dangerous Cargoes, in bulk, must complete and sign a DoS with the VSO or Facility Security Officer (FSO), or their designated representative, of any vessel or facility with which it interfaces.

(1) For a vessel-to-facility interface, prior to arrival of a vessel to a facility, the FSO and Master, VSO, or their designated representatives must coordinate security needs and procedures, and agree upon the contents of the DoS for the period of time the vessel is at the facility. Upon a vessel's arrival to a facility and prior to any passenger embarkation or disembarkation or cargo transfer operation, the FSO or Master, VSO, or designated representatives must sign the written DoS.

(2) For a vessel engaging in a vessel-to-vessel interface, prior to the interface, the respective Masters, VSOs, or their designated representatives must coordinate security needs and procedures, and agree upon the contents of the DoS for the period of time the vessel is at the facility. Upon the vessel-to-vessel interface and prior to any passenger embarkation or disembarkation or cargo transfer operation, the respective Masters, VSOs, or designated representatives must sign the written DoS.

(c) At MARSEC Levels 2 and 3, the Master, VSO, or designated representative of any vessel required to comply with this part must sign and implement a DoS prior to any vessel-to-vessel interface.

(d) At MARSEC Levels 2 and 3, the Master, VSO, or designated representative of any vessel required to comply with this part must sign and implement a DoS with the FSO of any facility on which it calls prior to any cargo transfer operation or passenger embarkation or disembarkation.

(e) At MARSEC Levels 1 and 2, VSOs of vessels that frequently interface with the same facility may implement a continuing DoS for multiple visits, provided that:

(1) The DoS is valid for the specific MARSEC Level;

(2) The effective period at MARSEC Level 1 does not exceed 90 days; and

(3) The effective period at MARSEC Level 2 does not exceed 30 days.

(f) When the MARSEC Level increases beyond the level contained in the DoS, the continuing DoS becomes void and a new DoS must be signed and implemented in accordance with this section.

(g) The COTP may require at any time, at any MARSEC Level, any manned vessel subject to this part to implement a DoS with the VSO or FSO prior to any vessel-to-vessel or vessel-to-facility interface when he or she deems it necessary.

§ 104.260 Security systems and equipment maintenance.

(a) Security systems and equipment must be in good working order and inspected, tested, calibrated and maintained according to the manufacturer's recommendation.

(b) The results of testing completed under paragraph (a) of this section shall be recorded in accordance with § 104.235. Any deficiencies shall be promptly corrected.

(c) The Vessel Security Plan (VSP) must include procedures for identifying and responding to security system and equipment failures or malfunctions.

§ 104.265 Security measures for access control.

(a) *General.* The vessel owner or operator must ensure the implementation of security measures to:

(1) Deter the unauthorized introduction of dangerous substances and devices, including any device intended to damage or destroy persons, vessels, facilities, or ports;

(2) Secure dangerous substances and devices that are authorized by the owner or operator to be on board; and

(3) Control access to the vessel.

(b) The vessel owner or operator must ensure that:

(1) The locations providing means of access to the vessel where access restrictions or prohibitions are applied for each Maritime Security (MARSEC) Level to prevent unauthorized access. ''Means of access'' include, but are not limited, to all:

(i) Access ladders;

(ii) Access gangways;

(iii) Access ramps;

(iv) Access doors, side scuttles, windows, and ports;

(v) Mooring lines and anchor chains; and

(vi) Cranes and hoisting gear;

(2) The identification of the types of restriction or prohibition to be applied and the means of enforcing them; and

(3) The means of identification required to allow individuals to access the vessel and remain on the vessel without challenge are established.

(c) The vessel owner or operator must ensure that an identification system is established for checking the identification of vessel personnel or other persons seeking access to the vessel that:

(1) Allows identification of authorized and unauthorized persons at any MARSEC Level;

(2) Is coordinated, when practicable, with identification systems at facilities used by the vessel;

(3) Is updated regularly;

(4) Uses disciplinary measures to discourage abuse;

(5) Allows temporary or continuing access for vessel personnel and visitors, including seafarer's chaplains and union representatives, through the use of a badge or other system to verify their identity; and

(6) Allow certain long-term, frequent vendor representatives to be treated more as employees than as visitors.

(d) The vessel owner or operator must establish in the approved Vessel Security Plan (VSP) the frequency of application of any security measures for access control, particularly if these security measures are applied on a random or occasional basis.

(e) *MARSEC Level 1.* The vessel owner or operator must ensure security measures in this paragraph are implemented to:

(1) Screen persons, baggage (including carry-on items), personal effects, and vehicles for dangerous substances and devices at the rate specified in the approved Vessels Security Plan (VSP);

(2) Conspicuously post signs that describe security measures currently in effect and clearly state that:

(i) Boarding the vessel is deemed valid consent to screening or inspection; and

(ii) Failure to consent or submit to screening or inspection will result in denial or revocation of authorization to board;

(3) Check the identification of any person seeking to board the vessel, including vessel passengers and crew, facility employees, vendors, personnel duly authorized by the cognizant government authorities, and visitors. This check includes confirming the reason for boarding by examining at least one of the following:

(i) Joining instructions;

(ii) Passenger tickets;

(iii) Boarding passes;

(iv) Work orders, pilot orders, or surveyor orders;

(v) Government identification; or

(vi) Visitor badges issued in accordance with an identification system required in paragraph (c) of this section;

(4) Deny or revoke a person's authorization to be on board if the person is unable or unwilling, upon the request of vessel personnel, to establish his or her identity or to account for his or her presence on board. Any such incident must be reported in compliance with this part;

(5) Deter unauthorized access to the vessel;

(6) Identify access points that must be secured or attended to deter unauthorized access;

(7) Lock or otherwise prevent access to unattended spaces that adjoin areas to which passengers and visitors have access;

(8) Provide a designated secure area on board or in liaison with a facility, for conducting inspections and screening of people, baggage (including carry-on items), personal effects, vehicles and the vehicle's contents;

(9) Ensure vessel personnel are not required to engage in or be subjected to screening, of the person or of personal effects, by other vessel personnel, unless security clearly requires it. Any such screening must be conducted in a way that takes into full account individual human rights and preserves the individual's basic human dignity;

(10) Ensure the screening of all unaccompanied baggage;

(11) Ensure checked persons and their personal effects are segregated from unchecked persons and their personal effects;

(12) Ensure embarking passengers are segregated from disembarking passengers;

(13) Ensure, in liaison with the facility, a defined percentage of vehicles to be loaded aboard passenger vessels are screened prior to loading at the rate specified in the approved VSP;

(14) Ensure, in liaison with the facility, all unaccompanied vehicles to be loaded on passenger vessels are screened prior to loading; and

(15) Respond to the presence of unauthorized persons on board, including repelling unauthorized boarders.

(f) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the vessel owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved VSP. These additional security measures may include:

(1) Increasing the frequency and detail of screening of people, personal effects, and vehicles being embarked or loaded onto the vessel as specified for MARSEC Level 2 in the approved VSP;

(2) X-ray screening of all unaccompanied baggage;

(3) Assigning additional personnel to patrol deck areas during periods of reduced vessel operations to deter unauthorized access;

(4) Limiting the number of access points to the vessel by closing and securing some access points;

(5) Denying access to visitors who do not have a verified destination;

(6) Deterring waterside access to the vessel, which may include, in liaison with the facility, providing boat patrols; and

(7) Establishing a restricted area on the shoreside of the vessel, in close cooperation with the facility.

(g) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, the vessel owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved VSP. The additional security measures may include:

(1) Screening all persons, baggage, and personal effects for dangerous substances and devices;

(2) Performing one or more of the following on unaccompanied baggage:

(i) Screen unaccompanied baggage more extensively, for example, x-raying from two or more angles;

(ii) Prepare to restrict or suspend handling unaccompanied baggage; or

(iii) Refuse to accept unaccompanied baggage on board;

(3) Being prepared to cooperate with responders and facilities;

(4) Limiting access to the vessel to a single, controlled access point;

(5) Granting access to only those responding to the security incident or threat thereof;

(6) Suspending embarkation and/or disembarkation of personnel;

(7) Suspending cargo operations;

(8) Evacuating the vessel;

(9) Moving the vessel; and

(10) Preparing for a full or partial search of the vessel.

§ 104.270 Security measures for restricted areas.

(a) *General.* The vessel owner or operator must ensure the designation of restricted areas in order to:

(1) Prevent or deter unauthorized access;

(2) Protect persons authorized to be on board;

(3) Protect the vessel;

(4) Protect sensitive security areas within the vessel;

(5) Protect security and surveillance equipment and systems; and

(6) Protect cargo and vessel stores from tampering.

(b) *Designation of Restricted Areas.* The vessel owner or operator must ensure restricted areas are designated on board the vessel, as specified in the approved plan. Restricted areas must include, as appropriate:

(1) Navigation bridge, machinery spaces and other control stations;

(2) Spaces containing security and surveillance equipment and systems and their controls and lighting system controls;

(3) Ventilation and air-conditioning systems and other similar spaces;

(4) Spaces with access to potable water tanks, pumps, or manifolds;

(5) Spaces containing dangerous goods or hazardous substances;

(6) Spaces containing cargo pumps and their controls;

(7) Cargo spaces and spaces containing vessel stores;

(8) Crew accommodations; and

(9) Any other spaces or areas vital to the security of the vessel.

(c) The vessel owner or operator must ensure that security measures and policies are established to:

(1) Identify which vessel personnel are authorized to have access;

(2) Determine which persons other than vessel personnel are authorized to have access;

(3) Determine the conditions under which that access may take place;

(4) Define the extent of any restricted area;

(5) Define the times when access restrictions apply; and

(6) Clearly mark all restricted areas and indicate that access to the area is restricted and that unauthorized

presence within the area constitutes a breach of security.

(d) *Maritime Security (MARSEC) Level 1.* The vessel owner or operator must ensure the implementation of security measures to prevent unauthorized access or activities within the area. These security measures may include:

(1) Locking or securing access points;

(2) Monitoring and using surveillance equipment;

(3) Using guards or patrols; and

(4) Using automatic intrusion detection devices, which if used must activate an audible and/or visual alarm at a location that is continuously attended or monitored, to alert vessel personnel to unauthorized access.

(e) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the vessel owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved VSP. These additional security measures may include:

(1) Increasing the frequency and intensity of monitoring and access controls on existing restricted access areas;

(2) Restricting access to areas adjacent to access points;

(3) Providing continuous monitoring of each area, using surveillance equipment; and

(4) Dedicating additional personnel to guard or patrol each area.

(f) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the vessel owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved VSP. These additional security measures may include:

(1) Restricting access to additional areas; and

(2) Searching restricted areas as part of a security sweep of the vessel.

§ 104.275 Security measures for handling cargo.

(a) *General.* The vessel owner or operator must ensure that security measures relating to cargo handling, some of which may have to be applied in liaison with the facility, are specified in order to:

(1) Deter tampering;

(2) Prevent cargo that is not meant for carriage from being accepted and stored on board the vessel;

(3) Identify cargo that is approved for loading onto the vessel;

(4) Include inventory control procedures at access points to the vessel;

(5) Coordinate security measures with the shipper or other responsible party in accordance with an established agreement and procedures; and

(6) Be able to check cargo for dangerous substances and devices at the rate specified in the approved Vessel Security Plan. Means to check cargo include:

(i) Visual examination;

(ii) Physical examination;

(iii) Detection devices such as scanners; or

(iv) Canines.

(b) *Maritime Security (MARSEC) Level 1.* At MARSEC Level 1, the vessel owner or operator must ensure the implementation of measures to:

(1) Routinely check cargo and cargo spaces prior to and during cargo handling;

(2) Check that cargo to be loaded matches the cargo documentation, or that cargo markings or container numbers match the information provided with shipping documents;

(3) Ensure, in liaison with the facility, that vehicles to be loaded on board car carriers, RO–RO, and passenger ships are subjected to screening prior to loading, in accordance with the frequency required in the VSP; and

(4) Check, in liaison with the facility, seals or other methods used to prevent tampering.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the vessel owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved Vessel Security Plan (VSP). These additional security measures may include:

(1) Increasing the frequency and detail of checking cargo and cargo spaces;

(2) Intensifying checks to ensure that only the intended cargo, container, or other cargo transport units are loaded;

(3) Intensifying screening of vehicles to be loaded on car-carriers, RO-RO, and passenger vessels;

(4) In liaison with the facility, increasing frequency and detail in checking seals or other methods used to prevent tampering;

(5) Increasing the frequency of the use of scanning/detection equipment, mechanical devices, or canines; or

(6) Coordinating enhanced security measures with the shipper or other responsible party in accordance with an established agreement and procedures.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the vessel owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved VSP. These additional security measures may include:

(1) Suspending loading or unloading of cargo;

(2) Being prepared to cooperate with responders and facilities; or

(3) Verifying the inventory and location of any hazardous materials carried on board.

§ 104.280 Security measures for delivery of vessel stores and bunkers.

(a) *General.* The vessel owner or operator must ensure that security measures relating to the delivery of vessel stores and bunkers are implemented to:

(1) Check vessel stores for package integrity;

(2) Prevent vessel stores from being accepted without inspection;

(3) Deter tampering; and

(4) Prevent vessel stores and bunkers from being accepted unless ordered. For vessels that routinely use a facility, a vessel owner or operator may establish and implement standing arrangements between the vessel, its suppliers, and a facility regarding notification and the timing of deliveries and their documentation.

(b) *Maritime Security (MARSEC) Level 1.* At MARSEC Level 1, the vessel owner or operator must ensure the implementation of measures to:

(1) Check vessel stores before being accepted;

(2) Check that vessel stores and bunkers match the order prior to being brought on board or being bunkered; and

(3) Ensure that vessel stores are controlled or immediately and securely stowed following delivery.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the vessel owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved Vessel Security Plan (VSP). These additional security measures may include:

(1) Intensifying inspection of the vessel stores during delivery; or

(2) Checking vessel stores prior to receiving them on board.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the vessel owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved VSP. These

additional security measures may include:

(1) Checking all vessel stores more extensively;

(2) Restricting or suspending delivery of vessel stores and bunkers; or

(3) Refusing to accept vessel stores on board.

§ 104.285 Security measures for monitoring.

(a) *General.* (1) The vessel owner or operator must ensure the implementation of security measures and have the capability to continuously monitor, through a combination of lighting, watchkeepers, security guards, deck watches, waterborne patrols and automatic intrusion-detection devices, or surveillance equipment, as specified in their approved Vessel Security Plan (VSP), the—

(i) Vessel;

(ii) Restricted areas on board the vessel; and

(iii) Area surrounding the vessel.

(2) The following must be considered when establishing the appropriate level and location of lighting:

(i) Vessel personnel should be able to detect activities on and around the vessel, on both the shore side and the waterside;

(ii) Coverage should facilitate personnel identification at access points;

(iii) Coverage may be provided through coordination with the port or facility; and

(iv) Lighting effects, such as glare, and its impact on safety, navigation, and other security activities.

(b) *Maritime Security (MARSEC) Level 1.* At MARSEC Level 1, the vessel owner or operator must ensure the implementation of security measures, which may be done in coordination with a facility, to:

(1) Monitor the vessel, particularly vessel access points and restricted areas;

(2) Be able to conduct emergency searches of the vessel;

(3) Ensure that equipment or system failures or malfunctions are identified and corrected;

(4) Ensure that any automatic intrusion detection device sets off an audible or visual alarm, or both, at a location that is continually attended or monitored;

(5) Light deck and vessel access points during the period between sunset and sunrise and periods of limited visibility sufficiently to allow visual identification of persons seeking access to the vessel; and

(6) Use maximum available lighting while underway, during the period between sunset and sunrise, consistent with safety and international regulations.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the vessel owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved VSP. These additional security measures may include:

(1) Increasing the frequency and detail of security patrols;

(2) Increasing the coverage and intensity of lighting, alone or in coordination with the facility;

(3) Using or increasing the use of security and surveillance equipment;

(4) Assigning additional personnel as security lookouts;

(5) Coordinating with boat patrols, when provided; or

(6) Coordinating with shoreside foot or vehicle patrols, when provided.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the vessel owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved VSP. These additional security measures may include:

(1) Cooperating with responders and facilities;

(2) Switching on all lights;

(3) Illuminating the vicinity of the vessel;

(4) Switching on all surveillance equipment capable of recording activities on, or in the vicinity of, the vessel;

(5) Maximizing the length of time such surveillance equipment can continue to record;

(6) Preparing for underwater inspection of the hull; and

(7) Initiating measures, including the slow revolution of the vessel's propellers, if practicable, to deter underwater access to the hull of the vessel.

§ 104.290 Security incident procedures.

For each Maritime Security (MARSEC) Level, the vessel owner or operator must ensure the Vessel Security Officer (VSO) and vessel security personnel are able to:

(a) Respond to security threats or breaches of security and maintain critical vessel and vessel-to-facility interface operations, to include:

(1) Prohibiting entry into affected area;

(2) Denying access to the vessel, except to those responding to the emergency;

(3) Implementing MARSEC Level 3 security measures throughout the vessel;

(4) Stopping cargo-handling operations; and

(5) Notifying shoreside authorities or other vessels of the emergency;

(b) Evacuating the vessel in case of security threats or breaches of security;

(c) Reporting security incidents as required in § 101.305;

(d) Briefing all vessel personnel on possible threats and the need for vigilance, soliciting their assistance in reporting suspicious persons, objects, or activities; and

(e) Securing non-critical operations in order to focus response on critical operations.

§ 104.292 Additional requirements—passenger vessels and ferries.

(a) At all Maritime Security (MARSEC) Levels, the vessel owner or operator must ensure security sweeps are performed, prior to getting underway, after any period the vessel was unattended.

(b) As an alternative to the identification checks and passenger screening requirements in § 104.265 (e)(1), (e)(3), and (e)(8), the owner or operator of a passenger vessel or ferry may ensure security measures are implemented that include:

(1) Searching selected areas prior to embarking passengers and prior to sailing; and

(2) Implementing one or more of the following:

(i) Performing routine security patrols;

(ii) Providing additional closed-circuit television to monitor passenger areas; or

(iii) Securing all non-passenger areas.

(c) Passenger vessels certificated to carry more than 2000 passengers, working in coordination with the terminal, may be subject to additional vehicle screening requirements in accordance with a MARSEC Directive or other orders issued by the Coast Guard.

(d) At MARSEC Level 2, a vessel owner or operator must ensure, in addition to MARSEC Level 1 measures, the implementation of the following:

(1) Search selected areas prior to embarking passengers and prior to sailing;

(2) Passenger vessels certificated to carry less than 2000 passengers, working in coordination with the terminal, may be subject to additional vehicle screening requirements in accordance with a MARSEC Directive or other orders issued by the Coast Guard; and

(3) As an alternative to the identification and screening requirements in § 104.265(e)(3), intensify patrols, security sweeps and

monitoring identified in paragraph (b) of this section.

(e) At MARSEC Level 3, a vessel owner or operator may, in addition to MARSEC Levels 1 and 2 measures, as an alternative to the identification checks and passenger screening requirements in § 104.265(e)(3), ensure that random armed security patrols are conducted, which need not consist of vessel personnel.

§ 104.295 Additional requirements—cruise ships.

(a) At all MARSEC Levels, the owner or operator of a cruise ship must ensure the following:

(1) Screen all persons, baggage, and personal effects for dangerous substances and devices;

(2) Check the identification of all persons seeking to board the vessel; this check includes confirming the reason for boarding by examining joining instructions, passenger tickets, boarding passes, government identification or visitor badges, or work orders;

(3) Perform security patrols; and

(4) Search selected areas prior to embarking passengers and prior to sailing.

(b) At MARSEC Level 3, the owner or operator of a cruise ship must ensure that security briefs to passengers about the specific threat are provided.

§ 104.297 Additional requirements—vessels on international voyages.

(a) An owner or operator of a U.S. flag vessel, which is subject to the International Convention for Safety of Life at Sea, 1974, (SOLAS), must be in compliance with the applicable requirements of SOLAS Chapter XI–1, SOLAS Chapter XI–2 and the ISPS Code, part A (Incorporated by reference, see § 101.115 of this subchapter).

(b) Owners or operators of U.S. flag vessels that are required to comply with SOLAS, must ensure an International Ship Security Certificate (ISSC) as provided in 46 CFR § 2.01–25 is obtained for the vessel. This certificate must be issued by the Coast Guard.

(c) Owners or operators of vessels that require an ISSC in paragraph (b) of this section must request an inspection in writing, at least 30 days prior to the desired inspection date to the Officer in Charge, Marine Inspection for the Marine Inspection Office or Marine Safety Office of the port where the vessel will be inspected to verify compliance with this part and applicable SOLAS requirements. The inspection must be completed and the initial ISSC must be issued prior to July 1, 2004.

Subpart C—Vessel Security Assessment (VSA)

§ 104.300 General.

(a) The Vessel Security Assessment (VSA) is a written document that is based on the collection of background information and the completion and analysis of an on-scene survey.

(b) A single VSA may be performed and applied to more than one vessel to the extent that they share physical characteristics and operations.

(c) Third parties may be used in any aspect of the VSA if they have the appropriate skills and if the Company Security Officer (CSO) reviews and accepts their work.

(d) Those involved in a VSA should be able to draw upon expert assistance in the following areas:

(1) Knowledge of current security threats and patterns;

(2) Recognition and detection of dangerous substances and devices;

(3) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;

(4) Techniques used to circumvent security measures;

(5) Methods used to cause a security incident;

(6) Effects of dangerous substances and devices on vessel structures and equipment;

(7) Vessel security requirements;

(8) Vessel-to-vessel and vessel-to-facility interface business practices;

(9) Contingency planning, emergency preparedness and response;

(10) Physical security requirements;

(11) Radio and telecommunications systems, including computer systems and networks;

(12) Marine engineering; and

(13) Vessel and port operations.

§ 104.305 Vessel Security Assessment (VSA) requirements.

(a) *Background.* The vessel owner or operator must ensure that the following background information is provided to the person or persons who will conduct the on-scene survey and assessment:

(1) General layout of the vessel, including the location of:

(i) Each actual or potential point of access to the vessel and its function;

(ii) Spaces that should have restricted access;

(iii) Essential maintenance equipment;

(iv) Cargo spaces and storage;

(v) Storage of unaccompanied baggage; and

(vi) Vessel stores;

(2) Threat assessments, including the purpose and methodology of the assessment, for the area or areas in which the vessel operates or at which passengers embark or disembark;

(3) The previous VSA, if any;

(4) Emergency and stand-by equipment available to maintain essential services;

(5) Number of vessel personnel and any existing security duties to which they are assigned;

(6) Existing personnel training requirement practices of the vessel;

(7) Existing security and safety equipment for the protection of personnel, visitors, passengers, and vessels personnel;

(8) Escape and evacuation routes and assembly stations that have to be maintained to ensure the orderly and safe emergency evacuation of the vessel;

(9) Existing agreements with private security companies providing waterside or vessel security services; and

(10) Existing security measures and procedures, including:

(i) Inspection and control procedures;

(ii) Identification systems;

(iii) Surveillance and monitoring equipment;

(iv) Personnel identification documents;

(v) Communication systems;

(vi) Alarms;

(vii) Lighting;

(viii) Access control systems; and

(ix) Other security systems.

(b) *On-scene survey.* The vessel owner or operator must ensure that an on-scene survey of each vessel is conducted. The on-scene survey is to verify or collect information required in paragraph (a) of this section. It consists of an actual survey that examines and evaluates existing vessel protective measures, procedures, and operations for:

(1) Ensuring performance of all security duties;

(2) Controlling access to the vessel, through the use of identification systems or otherwise;

(3) Controlling the embarkation of vessel personnel and other persons and their effects, including personal effects and baggage whether accompanied or unaccompanied;

(4) Supervising the handling of cargo and the delivery of vessel stores;

(5) Monitoring restricted areas to ensure that only authorized persons have access;

(6) Monitoring deck areas and areas surrounding the vessel; and

(7) The ready availability of security communications, information, and equipment.

(c) *Analysis and recommendations.* In conducting the VSA, the Company Security Officer (CSO) must analyze the vessel background information and the

on-scene survey, and while considering the requirements of this part, provide recommendations for the security measures the vessel should include in the Vessel Security Plan (VSP). This includes but is not limited to the following:

(1) Restricted areas;

(2) Response procedures for fire or other emergency conditions;

(3) Security supervision of vessel personnel, passengers, visitors, vendors, repair technicians, dock workers, etc.;

(4) Frequency and effectiveness of security patrols;

(5) Access control systems, including identification systems;

(6) Security communication systems and procedures;

(7) Security doors, barriers, and lighting;

(8) Any security and surveillance equipment and systems;

(9) Possible security threats, including but not limited to:

(i) Damage to or destruction of the vessel or an interfacing facility or vessel by dangerous substances and devices, arson, sabotage, or vandalism;

(ii) Hijacking or seizure of the vessel or of persons on board;

(iii) Tampering with cargo, essential vessel equipment or systems, or vessel stores;

(iv) Unauthorized access or use, including presence of stowaways;

(v) Smuggling dangerous substances and devices;

(vi) Use of the vessel to carry those intending to cause a security incident and/or their equipment;

(vii) Use of the vessel itself as a weapon or as a means to cause damage or destruction;

(viii) Attacks from seaward while at berth or at anchor; and

(ix) Attacks while at sea; and

(10) Evaluating the potential of each identified point of access, including open weather decks, for use by individuals who might seek to breach security, whether or not those individuals legitimately have access to the vessel.

(d) *VSA report.* (1) The vessel owner or operator must ensure that a written VSA report is prepared and included as part of the VSP. The VSA report must contain:

(i) A summary of how the on-scene survey was conducted;

(ii) Existing security measures, procedures, and operations;

(iii) A description of each vulnerability found during the assessment;

(iv) A description of security countermeasures that could be used to address each vulnerability;

(v) A list of the key vessel operations that are important to protect;

(vi) The likelihood of possible threats to key vessel operations; and

(vii) A list of identified weaknesses, including human factors, in the infrastructure, policies, and procedures of the vessel.

(2) The VSA report must address the following elements on board or within the vessel:

(i) Physical security;

(ii) Structural integrity;

(iii) Personnel protection systems;

(iv) Procedural policies;

(v) Radio and telecommunication systems, including computer systems and networks; and

(vi) Other areas that may, if damaged or used illicitly, pose a risk to people, property, or operations on board the vessel or within a facility.

(3) The VSA must list the persons, activities, services, and operations that are important to protect, in each of the following categories:

(i) Vessel personnel;

(ii) Passengers, visitors, vendors, repair technicians, facility personnel, etc.;

(iii) Capacity to maintain safe navigation and emergency response;

(iv) Cargo, particularly dangerous goods or hazardous substances;

(v) Vessel stores;

(vi) Any vessel security communication and surveillance systems; and

(vii) Any other vessel security systems, if any.

(4) The VSA must account for any vulnerabilities in the following areas:

(i) Conflicts between safety and security measures;

(ii) Conflicts between vessel duties and security assignments;

(iii) The impact of watch-keeping duties and risk of fatigue on vessel personnel alertness and performance;

(iv) Security training deficiencies; and

(v) Security equipment and systems, including communication systems.

(5) The VSA must discuss and evaluate key vessel measures and operations, including:

(i) Ensuring performance of all security duties;

(ii) Controlling access to the vessel, through the use of identification systems or otherwise;

(iii) Controlling the embarkation of vessel personnel and other persons and their effects (including personal effects and baggage whether accompanied or unaccompanied);

(iv) Supervising the handling of cargo and the delivery of vessel stores;

(v) Monitoring restricted areas to ensure that only authorized persons have access;

(vi) Monitoring deck areas and areas surrounding the vessel; and

(vii) The ready availability of security communications, information, and equipment.

(6) The VSA must be documented and the VSA report retained by the vessel owner or operator with the VSP. The VSA and VSP must be protected from unauthorized access or disclosure.

§§ 104.310 Submission requirements.

(a) A completed Vessel Security Assessment (VSA) report must be submitted with the Vessel Security Plan (VSP) required in § 104.410 of this part.

(b) A vessel owner or operator may generate and submit a report that contains the VSA for more than one vessel subject to this part, to the extent that they share similarities in physical characteristics and operations.

Subpart D—Vessel Security Plan (VSP)

§ 104.400 General.

(a) The Company Security Officer (CSO) must ensure a Vessel Security Plan (VSP) is developed and implemented for each vessel. The VSP:

(1) Must identify the CSO and VSO by name or position and provide 24-hour contact information;

(2) Must be written in English;

(3) Must address each vulnerability identified in the Vessel Security Assessment (VSA);

(4) Must describe security measures for each MARSEC Level;

(5) Must state the Master's authority as described in § 104.205; and

(6) May cover more than one vessel to the extent that they share similarities in physical characteristics and operations, if authorized and approved by the Commanding Officer, Marine Safety Center.

(b) Except for foreign vessels that have on board a valid International Ship Security Certificate (ISSC) that attests to the vessel's compliance with SOLAS Chapter XI–2 and the ISPS Code, part A (Incorporated by reference, see § 101.115 of this subchapter), and having taken into account the relevant provisions in the ISPS Code, part B, the VSP must be submitted for approval to the Commanding Officer, Marine Safety Center (MSC), 400 Seventh Street, SW., Room 6302, Nassif Building, Washington, DC 20590–0001, in a written or electronic format. Format for submitting the VSP electronically can be found at *http://www.uscg.mil/HQ/MSC.*

(c) The VSP is sensitive security information and must be protected in accordance with 49 CFR part 1520.

(d) If the VSP is kept in an electronic format, procedures must be in place to

prevent its unauthorized deletion, destruction, or amendment.

§ 104.405 Format of the Vessel Security Plan (VSP).

(a) A vessel owner or operator must ensure that the VSP consists of the individual sections listed in this paragraph (a). If the VSP does not follow the order as it appears in the list, the vessel owner or operator must ensure that the VSP contains an index identifying the location of each of the following sections:

(1) Security organization of the vessel;
(2) Personnel training;
(3) Drills and exercises;
(4) Records and documentation;
(5) Response to change in MARSEC Level;
(6) Procedures for interfacing with facilities and other vessels;
(7) Declarations of Security (DoS);
(8) Communications;
(9) Security systems and equipment maintenance;
(10) Security measures for access control;
(11) Security measures for restricted areas;
(12) Security measures for handling cargo;
(13) Security measures for delivery of vessel stores and bunkers;
(14) Security measures for monitoring;
(15) Security incident procedures;
(16) Audits and Vessel Security Plan (VSP) amendments; and
(17) Vessel Security Assessment (VSA) Report.

(b) The VSP must describe in detail how the requirements of subpart B of this part will be met.

§ 104.410 Submission and approval.

(a) On or before December 29, 2003, each vessel owner or operator must either:

(1) Submit one copy of their Vessel Security Plan (VSP) for review and approval to the Commanding Officer, Marine Safety Center (MSC) and a letter certifying that the VSP meets applicable requirements of this part; or

(2) If implementing a Coast Guard approved Alternative Security Program, meet the requirements in § 101.120(b) of this subchapter.

(b) Vessels built on or after July 1, 2004, must comply with the requirements in paragraph (a) of this section 60 days prior to beginning operations.

(c) The Commanding Officer, Marine Safety Center (MSC), will examine each submission for compliance with this part, and either:

(1) Approve it and specify any conditions of approval, returning to the submitter a letter stating its acceptance and any conditions, or

(2) Disapprove it, returning a copy to the submitter with a brief statement of the reasons for disapproval.

(d) A VSP may be submitted and approved to cover more than one vessel where the vessel design and operations are similar.

(e) Each company or vessel, owner or operator, that submits one VSP to cover two or more vessels of similar design and operation must address vessel-specific information that includes the physical and operational characteristics of each vessel.

(f) A plan that is approved by the MSC is valid for 5 years from the date of its approval.

§ 104.415 Amendment and audit.

(a) *Amendments.* (1) Amendments to a Vessel Security Plan that are approved by the MSC may be initiated by:

(i) The vessel owner or operator; or

(ii) The Coast Guard upon a determination that an amendment is needed to maintain the vessel's security. The Coast Guard will give the vessel owner or operator written notice and request that the vessel owner or operator propose amendments addressing any matters specified in the notice. The company owner or operator will have at least 60 days to submit its proposed amendments. Until amendments are approved, the company owner or operator shall ensure temporary security measures are implemented to the satisfaction of the Coast Guard.

(2) Proposed amendments must be sent to the marine safety center at the address shown in § 104.400(b) of this part. If initiated by the company or vessel, owner or operator, the proposed amendment must be submitted at least 30 days before the amendment is to take effect unless the Marine Safety Center (MSC) allows a shorter period. The MSC will approve or disapprove the proposed amendment in accordance with § 104.410 of this part.

(3) If the owner or operator has changed, the Vessel Security Officer (VSO) must amend the Vessel Security Plan (VSP) to include the name and contact information of the new vessel owner or operator and submit the affected portion of the VSP for review and approval in accordance with § 104.410 of this part.

(b) *Audits.* (1) The CSO or VSO must ensure an audit of the VSP is performed annually, beginning no later than one year from the initial date of approval and attach a letter to the VSP certifying that the VSP meets the applicable requirements of this part.

(2) The VSP must be audited if there is a change in the company's or vessel's ownership or operator, or if there have been modifications to the vessel, including but not limited to physical structure, emergency response procedures, security measures, or operations.

(3) Auditing the VSP as a result of modifications to the vessel may be limited to those sections of the VSP affected by the vessel modifications.

(4) Unless impracticable due to the size and nature of the company or the vessel, personnel conducting internal audits of the security measures specified in the VSP or evaluating its implementation must:

(i) Have knowledge of methods of conducting audits and inspections, and control and monitoring techniques;

(ii) Not have regularly assigned security duties; and

(iii) Be independent of any security measures being audited.

(5) If the results of an audit require amendment of either the VSA or VSP, the VSO or CSO must submit, in accordance with § 104.410 of this part, the amendments to the MSC for review and approval no later than 30 days after completion of the audit and a letter certifying that the amended VSP meets the applicable requirements of this part.

PART 160—PORTS AND WATERWAY SAFETY—GENERAL

■ 2. Revise the authority citation for part 160 to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation 0170. Subpart D is also issued under the authority of 33 U.S.C. 125 and 46 U.S.C. 3715.

■ 3. In § 160.203, add paragraph (f) to read as follows:

§ 160.203 Exemptions.

* * * * *

(f) U.S. vessels need not submit the International Ship and Port Facility Code (ISPS) Notice information (Entry (9) to Table 160.206).

■ 4. In § 160.206, in the table in paragraph (a), add paragraph (9) to read as follows:

§ 160.206 Information required in an NOA.

* * * * *

TABLE 160.206.—NOA INFORMATION ITEMS

Required information	Vessels not carrying CDC	Vessels carrying CDC	
		Vessels	Towing vessels controlling vessels carrying CDC
* * * *	*	*	*
(9) International Ship and Port Facility Code (ISPS) Notice*:			
(i) The date of issuance for the vessel's International Ship Security Certificate (ISSC), if any;	X	X	X
(ii) Whether the ISSC, if any, is an initial Interim ISSC, subsequent and consecutive Interim ISSC, or final ISSC;	X	X	X
(iii) Declaration that the approved ship security plan, if any, is being implemented;	X	X	X
(iv) If a subsequent and consecutive Interim ISSC, the reasons therefor;	X	X	X
(v) The name and 24-hour contact information for the Company Security Officer; and	X	X	X
(vi) The name of the Flag Administration, or the recognized security organization(s) representing the vessel flag Administration that issued the ISSC.	X	X	X

*The information required by items 9(i)-(iii) need not be submitted before January 1, 2004. All other information required by item 9 need not be submitted before July 1, 2004.

* * * * *

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 5. Revise the authority citation for part 165 to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

* * * * *

PART 2—VESSEL INSPECTIONS

■ 6. Revise the authority citation for part 2 to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation 0170; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. Note prec. 1).

■ 7. In § 2.01–25, add new paragraph (a)(1)(viii) to read as follows:

§ 2.01–25 International Convention for Safety of Life at Sea (SOLAS), 1974.

(a) * * *

(1) * * *

(viii) International Ship Security Certificate.

* * * * *

PART 31—INSPECTION AND CERTIFICATION

■ 8. Revise the authority citation for part 31 to read as follows:

Authority: 33 U.S.C. 1321(j); 43 U.S.C. 2103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; 49 U.S.C. 5103, 5106; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation 0170; Section 31.10–021 also issued under the authority § 4109, Public Law 101–380, 104 Stat. 515.

■ 9. Revise § 31.05–1(a) to read as follows:

§ 31.05–1 Issuance of certificate of inspection—TB/ALL.

(a) When a tank vessel is found to comply with all applicable regulations, including the applicable provisions of subchapters E, F, J, O, Q, S, and W of this chapter and of 33 CFR parts 104, 155, and 157, the Officer in Charge, Marine Inspection will issue a certificate of inspection to the vessel or to its owners.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

■ 10. Revise the authority citation for part 71 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation 0170.

■ 11. Add new § 71.25–47 to read as follows:

§ 71.25–47 Vessel security.

At each inspection for certification and periodic inspection, the inspector shall examine the vessel to determine that it meets vessel security requirements in 33 CFR part 104.

PART 91—INSPECTION AND CERTIFICATION

■ 12. Revise the authority citation for part 91 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation 0170.

■ 13. Add new § 91.25–47 to read as follows:

§ 91.25–47 Vessel security.

At each inspection for certification and periodic inspection, the inspector shall examine the vessel to determine that it meets vessel security requirements in 33 CFR part 104.

PART 115—INSPECTION AND CERTIFICATION

■ 14. Revise the authority citation for part 115 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 46 U.S.C. Chapter 701; 49 U.S.C. App. 1804; Executive Order 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation 0170.

■ 15. Revise § 115.404(a) to read as follows:

§ 115.404 Subsequent inspections for certification.

(a) An inspection for renewal of a Certificate of Inspection is conducted to determine if the vessel is in satisfactory condition, fit for the service intended, and complies with all applicable regulations. It normally includes inspection and testing of the structure,

machinery, equipment, and on a sailing vessel, rigging and sails. The owner or operator must conduct all tests as required by the OCMI, and make the vessel available for all specific inspections and drills required by subpart H of this part. In addition, the OCMI may require the vessel to get underway.

* * * * *

PART 126—INSPECTION AND CERTIFICATION

■ 16. Revise the authority citation for part 126 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 111735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; Department of Homeland Security Delegation 0170.

■ 17. Add new § 126.490 to read as follows:

§ 126.490 Vessel security.

At each inspection for certification and periodic inspection, the inspector shall examine the vessel to determine that it meets vessel security requirements in 33 CFR part 104.

PART 176—INSPECTION AND CERTIFICATION

■ 18. Revise the authority citation for part 176 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 46 U.S.C. Chapter 701; 49 U.S.C. App. 1804; Executive Order 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 277; Department of Homeland Security Delegation 0170.

■ 19. Revise § 176.404(a) to read as follows:

§ 176.404 Subsequent inspections for certification.

(a) An inspection for renewal of a Certificate of Inspection is conducted to determine if the vessel is in satisfactory condition, fit for the service intended, and complies with all applicable regulations. It normally includes inspection and testing of the structure, machinery, equipment, and on a sailing vessel, rigging and sails. The owner or operator must conduct all tests as required by the OCMI, and make the vessel available for all specific inspections and drills required by subpart H of this part. In addition, the OCMI may require the vessel to get underway.

* * * * *

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, Coast Guard Commandant.

[FR Doc. 03–16188 Filed 6–27–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

[USCG–2003–14732]

RIN 1625–AA43

Facility Security

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments and notice of meeting.

SUMMARY: This interim rule provides security measures for certain facilities in U.S. ports. It requires owners or operators of facilities to designate security officers for facilities, develop security plans based on security assessments and surveys, implement security measures specific to the facilities' operations, and comply with Maritime Security Levels. This interim rule is one of six interim rules in today's **Federal Register** that comprise a new subchapter on the requirements for maritime security mandated by the Maritime Transportation Security Act of 2002. These six interim rules implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf facilities, and the Automatic Identification System. Where appropriate, they align these domestic maritime security requirements with those of the International Ship and Port Facility Security Code and recent amendments to the International Convention for Safety of Life at Sea, 1974. To best understand these interim rules, first read the one titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**.

DATES: *Effective date.* This interim rule is effective from July 1, 2003 until November 25, 2003.

Comments. Comments and related material must reach the Docket Management Facility on or before July 31, 2003. Comments on collection of information sent to the Office of Management and Budget (OMB) must reach OMB on or before July 31, 2003.

Meeting. A public meeting will be held on July 23, 2003, from 9 a.m. to 5 p.m., in Washington, DC.

ADDRESSES: *Comments.* To ensure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically to the Docket Management System Web site at *http://dms.dot.gov.*

(2) By mail to the Docket Management Facility (USCG–2003–14732), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

You must mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard. Meeting. A public meeting will be held on July 23, 2003 in Washington, DC at the Grand Hyatt Washington, DC, 1000 H Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call Lieutenant Gregory Purvis, U.S. Coast Guard by telephone, 202–267–1103, toll-free telephone, 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION: Due to the short timeframe given to implement these National Maritime Transportation Security initiatives, as directed by the Maritime Transportation Security Act of 2002 (MTSA, Public Law 107–295, 116 STAT. 2064), and to ensure all comments are in the public venue for these important rulemakings, we are not accepting comments containing protected information for these interim rules. We request you submit comments, as explained in the Request for Comments section below, and discuss your concerns or support in a manner that is not security sensitive. We also request that you not submit proprietary information as part of your comment.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as

documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may also review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue before November 25, 2003, to replace this interim rule. If you choose to comment on this rule, please include your name and address, identify the specific docket number for this interim rule (USCG–2003–14732), indicate the specific heading of this document to which each comment applies, and give the reason for each comment. If you have comments on another rule, please indicate in a separate letter to the docket for that rulemaking. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES.** Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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 interim rule in view of them.

Public Meeting

We will hold a public meeting on July 23, 2003, in Washington, DC at the Grand Hyatt Hotel, at the address listed under **ADDRESSES.** The meeting will be from 9 a.m. to 5 p.m. to discuss all of the maritime security interim rules, and the Automatic Identification System (AIS) interim rule, found in today's **Federal Register**. In addition, you may submit a request for other public meetings to the Docket Management Facility at the address under **ADDRESSES** explaining why another one would be beneficial. If we determine that other meetings would aid this rulemaking, we will hold them at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking for this rulemaking and are making this interim rule effective upon publication. Section 102(d)(1) of the MTSA requires the publication of an interim rule as soon as practicable without regard to the provisions of chapter 5 of title 5, U.S. Code (Administrative Procedure Act). The Coast Guard finds that harmonization of U.S. regulations with maritime security measures adopted by the International Maritime Organization (IMO) in December 2002, and the need to institute measures for the protection of U.S. maritime security as soon as practicable, furnish good cause for this interim rule to take effect immediately under both the Administrative Procedure Act and section 808 of the Congressional Review Act.

Background and Purpose

A summary of the Coast Guard's regulatory initiatives for maritime security can be found under the ''Background and Purpose'' section in the preamble to the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Discussion of Comments Addressing Facility Issues in the Notice of Meeting

For a discussion of comments on facilities at the public meetings and in the docket, see the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Discussion of Interim Rule

The purpose of this rulemaking is to require security measures for facilities in order to reduce the risk of and to mitigate the results of an act that threatens the security of personnel, the facility, and the public. This rulemaking combines international requirements and existing domestic policy, and adds part 105, Facility Security, to the new subchapter H, Maritime Security, of Title 33 of the Code of Federal Regulation. A general description of the process used in developing subchapter H and its component parts appears in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

This rulemaking applies to facilities subject to 33 CFR parts 126, 127, and 154; facilities that receive vessels certified to carry more than 150 passengers; and facilities that receive vessels on international voyages, including vessels solely navigating the Great Lakes.

The MTSA and the International Ship and Port Facility Security (ISPS) Code use different terms to define similar, if not identical, persons or things. These differing terms sometimes match up with the terms used in subchapter H, but sometimes they do not. For a table of the terms used in subchapter H and their related terms in the MTSA and the ISPS Code, see the *Discussion of Interim Rule* section in the preamble for the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**.

This rulemaking does not apply to Outer Continental Shelf (OCS) platforms and deepwater ports. Those structures are covered by the rulemaking ''Outer Continental Shelf Facility Security'' (USCG–2003–14759), published elsewhere in today's **Federal Register**.

This preamble describes the facilities regulated by part 105 and the requirements for conducting Facility Security Assessments, developing Facility Security Plans, and implementing security measures and procedures. The requirements in part 105 are consistent with requirements in the ISPS Code. Facility security includes the requirements discussed below:

Compliance

The Coast Guard, as provided in 33 CFR part 126, 127, and 154, will verify facility compliance with this part during inspections.

As required by Regulation 3 of Chapter XI–2 of the International Convention for Safety of Life at Sea, 1974 (SOLAS) and the ISPS Code, part A, section 5, the Coast Guard has published additional requirements that provide the U.S. (as a contracting government) with requirements for setting and communicating changes in Maritime Security (MARSEC) Level, completing Declarations of Security, and additional instructions for all facilities when MARSEC Level 3 is set.

Waivers

The waiver section details procedures for requesting a waiver for the benefit of facility owners or operators who find specific requirements of the rulemaking to be unnecessary.

Equivalents

The equivalents section details procedures for requesting an equivalency for specific requirements of the rulemaking. Equivalents are intended to allow facility owners or operators to provide an alternative provision or arrangement that provides the same level of security as a specific requirement contained within this part.

Alternative Security Program

This part makes provision to allow owners or operators of facilities to implement an Alternative Security Program that has been reviewed and accepted by the Commandant (G–MP), to meet the requirements of this part. Alternative Security Programs must be comprehensive and based on a security assessment to demonstrate it meets the intent of each section of this part. Owners or operators who choose to implement an appropriate Alternative Security Program will be required to implement it in its entirety to be deemed in compliance with this part.

Evaluating Submissions of Waivers, Equivalents, and Alternative Security Programs

In our evaluation of waivers, equivalencies, and Alternative Security Programs, the Coast Guard will accept a self-assessment or demonstration using any risk management tools acceptable to the Coast Guard. This demonstration may be requested to show that the proposed waiver, equivalency or Alternative Security Program is at least as effective as that intended by this interim rule.

Facility Owner or Operator Responsibilities

This rule requires each facility owner or operator to develop an effective security plan that incorporates detailed preparation, prevention, and response activities for each MARSEC Level, and detail the organizations, or personnel responsible for carrying out those activities. The requirements discussed in this subpart are also consistent with requirements in the ISPS Code. Facility owner or operator responsibilities include:

- Designating a Facility Security Officer.
- Ensuring a Facility Security Assessment is conducted.
- Developing and submitting for approval a Facility Security Plan.
- Operating the facility in accordance with the approved Facility Security Plan.
- Implementing additional security measures required by changes in MARSEC Level.
- Reporting all breaches of security and security incidents.
- Coordinating shore leave for vessel personnel or crew change-out, as well as access through the facility of visitors to the vessel, including representatives of seafarers' welfare and labor organizations, in advance of a vessel's arrival. (In the past, some facilities may have denied access to seafarers and seafarer welfare organizations where there was not an articulable security basis for doing so. The Coast Guard is including their provision in this interim rule to encourage facilities to allow such access when appropriate.)

Facility Security Officer (FSO)

This rule requires that a facility owner or operator designate in writing a Facility Security Officer for each facility. The Facility Security Officer may be a full-time or collateral-duty position. The Facility Security Officer must have general knowledge on a range of issues such as security administration, relevant international laws, domestic regulations, current security threats and patterns, risk assessment methodology, inspections, control procedures and conducting audits. The most important duties that must be performed by the Facility Security Officer would include implementing a Facility Security Plan; periodically auditing and updating the Facility Security Assessment and Facility Security Plan; ensuring that adequate training is provided to facility personnel; and ensuring the facility is operating in accordance with the plan and in continuous compliance with part 105. The Facility Security Officer may assign security duties to other facility personnel; however, the Facility Security Officer remains responsible for these duties.

Training

Required training for facility personnel must be specified in the Facility Security Plan. Specific security training courses for the Facility Security Officer and facility personnel will not be required by the Coast Guard. While formal training may be appropriate, we are not mandating specifics. Facility owners or operators must certify that security personnel are, in fact, properly trained to perform their duties. The types of training required must also be consistent with the training requirements described in this subpart. The Facility Security Officer is also required to ensure that facility security persons possess necessary training to maintain the overall security of the facility.

Drill and Exercise Requirements

Exercises are required to ensure the adequacy of the Facility Security Plans and are required to be conducted at least once each calendar year, with no more than 18 months between exercises. Drills, which are smaller in scope than exercises, must be conducted at least every 3 months. Exercises may be facility specific, or as part of a cooperative exercise program with applicable Facility and Vessel Security Plans or Port exercises. Exercises for security may be combined with other required exercises, as appropriate.

Security Systems and Equipment Maintenance

Procedures and/or policies must be developed and implemented to ensure security systems and equipment are tested and operated in accordance with the instructions of the manufacturer and ready for use.

Security Measures

Security measures for specific activities must be scalable in order to provide increasing levels of security at increasing MARSEC Levels. An effective security program relies on detailed procedures that clearly indicate the preparation and prevention activities that will occur at each threat level and the organizations, or personnel, who are responsible for carrying out those activities. Security Measures must be developed for the following activities:

- Security measures for access control;
- Security measures for restricted areas;
- Security measures for handling cargo;
- Security measures for delivery of vessel stores and bunkers; and
- Security measures for monitoring.

Security Incident Procedures

Each facility owner or operator must develop security incident procedures for responding to transportation security incidents. The security incident procedures must explain the facility's reaction to an emergency, including the notification and coordination with local, State, and federal authorities and Under Secretary of Emergency Preparedness and Response. The security incident procedures must also explain actions for securing the facility and evacuating

personnel, as well as actions for securing vessels moored to the facility and evacuating passengers and crew.

Declaration of Security (DoS)

A Declaration of Security is a written agreement between the facility and a vessel that provides a means for ensuring that critical security concerns are properly addressed prior to and during a vessel-to-facility interface. The Declaration of Security addresses security by delineating responsibilities for security arrangements and procedures between a vessel and facility. This requirement is similar to the existing U.S. practice for vessel-to-facility oil transfer proceedings.

Only certain passenger vessels and vessels carrying Certain Dangerous Cargoes, in bulk, will complete a Declaration of Security for every evolution regardless of the MARSEC Level. At MARSEC Levels 2 and 3, all vessels and facilities would need to complete the Declaration of Security.

Facilities that frequently receive the same vessel may execute a continuing Declaration of Security—a single Declaration of Security for multiple visits.

All Declarations of Security must state the security activities for which the facility and vessel are responsible during vessel-to-facility interfaces. Declarations of Security must be kept as part of the facility's recordkeeping.

Facility Security Assessment (FSA)

This rule requires all regulated facilities to complete a Facility Security Assessment, which is an essential and integral part of the process of developing and updating the required Facility Security Plan. The Facility Security Plan is based on the results of the Facility Security Assessment. The Facility Security Officer must examine and evaluate existing facility protective measures, procedures, and operations.

The Facility Security Officer must also examine each identified point of access, including rail access, roads, waterside, and gates, and evaluate its potential for use by individuals who might engage in unlawful acts, including individuals with legitimate access, as well as those seeking unauthorized entry.

Each facility owner or operator is required to document and retain its Facility Security Assessment for a period of five years. Prior to conducting a Facility Security Assessment, the Facility Security Officer is responsible for researching and using available information on the assessment of threat for the port at which the facility is located, as well as vessels that would call on the facility. The first step in the facility security process is to conduct an on-scene survey. The on-scene survey is used to examine and evaluate existing facility protective measures, procedures and operations. In conducting the Facility Security Assessment, the facility owner or operator must ensure that the Facility Security Officer analyzes the facility background information and the results of the on scene survey, and considering the requirements of this interim rule, provide recommendation to establish and prioritize the security measures that should be included in the Facility Security Plan. The facility owner or operator them must ensure that a written Facility Security Assessment report is prepared and included in the Facility Security Plan. The Facility Security Assessment must be reviewed and updated each time the Facility Security Plan is revised and when the Facility Security Plan is submitted for re-approval every five years. The facility owner or operator then must ensure that a written Facility Security Assessment report is prepared and included as an appendix to the Facility Security Plan.

The Facility Security Officer is also responsible for ensuring that the Facility Security Assessment is periodically reviewed and updated, taking into account changes in the facility and its operations. Before a plan could be renewed or revised, a new Facility Security Assessment would need to be conducted.

The Facility Security Officer is responsible for obtaining and recording any specific information required to conduct the Facility Security Assessment.

Facility Security Plan (FSP)

This subpart contains requirements for Facility Security Plans. The requirements discussed in this subpart are consistent with requirements in the ISPS Code.

Facility Security Plans must incorporate the results of the required Facility Security Assessment and consider the recommended measures appropriate to each facility.

Facility Security Plans can be combined with or complement existing safety management systems. The plans may be kept in an electronic format, protected by means to prevent it from being deleted, destroyed or overwritten. The plans must also be protected from unauthorized access or disclosure.

Facility Security Plans required under this rulemaking must contain:

- A list of measures and equipment needed to prevent or deter dangerous substances and devices which could be used against people, vessels or ports and the carriage of which is not authorized from being introduced by any means on to the facility;
- Requirements for the prevention of unauthorized access to the facility and to restricted areas of the facility;
- Documented procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the facility or the vessel-to-port interface;
- Documented procedures for evacuation in case of security threats or breaches of security;
- Procedures for training, exercises, and drills associated with the plan;
- Documented procedures for interfacing with port and vessel security activities;
- Documented procedures for the periodic review of the Facility Security Plan and for updating it;
- Documented procedures for reporting security incidents;
- Written designation of the Facility Security Officer;
- A list of the duties and responsibilities of all facility personnel with a security role;
- A list of measures to ensure the security of information contained in the plan;
- A maintenance system to maintain operational readiness of all required equipment using manufacturers' recommended maintenance instructions and periodic inspection;
- A list of measures needed to ensure effective security of cargo, cargo processing, and the cargo-handling equipment at the facility; and
- A completed Facility Vulnerability and Security Measures Summary (Form CG–6025) for each facility covered by the Plan.

Submission and Approval of Security Plan

The Facility Security Plan, including the Facility Security Assessment report and the Facility Vulnerability and Security Measures Summary (Form CG–6025), must be submitted to and reviewed by the cognizant COTP. Once the COTP finds that the plan meets the security requirements in part 105, the submitter will receive an approval letter that may contain conditions of the approval.

If the cognizant COTP requires more time than is indicated in the requirements of the interim rule to review a submitted Facility Security Plan, the cognizant COTP may return to the submitter a written acknowledgement stating that the Coast Guard is currently reviewing the

Facility Security Plan submitted for approval, and that the facility may continue to operate so long as the facility remains in compliance with the submitted Facility Security Plan.

If the COTP finds that the Facility Security Plan does not meet the security requirements, the plans would be returned to the facility with a disapproval letter with an explanation of why the plan does not meet the part 105 requirements.

Security plans must be reviewed by the Coast Guard every time:

- The Facility Security Assessment is altered;
- Failures are identified during an exercise of the Facility Security Plan; and
- There is a change in ownership or operational control of the facility or there are amendments to the Facility Security Plan.

Regulatory Assessment

This interim rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of the Department of Homeland Security. A Cost Assessment is available in the docket as indicated under **ADDRESSES.** A summary of the Assessment follows:

Cost Assessment

For the purposes of good business practice or regulations promulgated by other Federal and State agencies, many companies already have spent a substantial amount of money and resources to upgrade and improve security. The costs shown in this assessment do not include the security measures these companies have already taken to enhance security.

We realize that every company engaged in maritime commerce will not implement this interim rule exactly as presented in the assessment. Depending on each company's choices, some companies could spend much less than what is estimated herein while others could spend significantly more. In general, we assume that each company will implement this interim rule differently based on the type of facilities it owns or operates and whether it engages in international or domestic trade.

The population affected by this interim rule is approximately 5,000 facilities, and the estimated Present Value (PV) cost to these facilities is approximately PV $5.399 billion (2003 to 2012, 7 percent discount rate). Approximately PV $2.718 billion of this total is attributed to facilities engaged in the transfer of hazardous bulk liquids (petroleum, edible oils, and liquefied gases). The remaining PV $2.681 billion is attributable to facilities that receive vessels on international voyages or carry more than 150 passengers, or fleet barges carrying certain dangerous cargoes. During the initial year of compliance, the cost is attributable to purchasing and installing equipment, hiring security officers, and preparing paperwork. The initial cost is an estimated $1.125 billion (non-discounted, $498 million for the facilities with hazardous bulk liquids, $627 million for the other facilities). Following initial implementation, the annual cost is an estimated $656 million (non-discounted, $341 million for the facilities with hazardous bulk liquids, $315 million for the other facilities).

Approximately 51 percent of the initial cost is for installing or upgrading equipment, 30 percent for hiring and training Facility Security Officers, 14 percent for hiring additional security guards, and 5 percent for paperwork (Facility Security Assessments and Facility Security Plans). Following the first year, approximately 52 percent of the annual cost is for Facility Security Officers (cost and training), 24 percent for security guards, 9 percent for paperwork (updating Facility Security Assessments and Facility Security Plans), 9 percent for operations and maintenance for equipment, and approximately 6 percent for drills. The cost of facility security consists primarily of installing or upgrading equipment and designating Facility Security Officers.

Benefit Assessment

This rule is one of six interim rules that implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf facilities, and AIS. The Coast Guard used the National Risk Assessment Tool (N–RAT) to assess benefits that would result from increased security for vessels, facilities, Outer Continental Shelf facilities, and ports. The N–RAT considers threat, vulnerability, and consequences for several maritime entities in various security-related scenarios. For a more detailed discussion on the N–RAT and how we employed this tool, refer to ''Applicability of National Maritime Security Initiatives'' in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USGC–2003–14792) published elsewhere in today's **Federal Register**. For this benefit assessment, the Coast Guard used a team of experts to calculate a risk score for each entity and scenario before and after the implementation of required security measures. The difference in before and after scores indicates the benefit of the proposed action.

We recognized that the interim rules are a ''family'' of rules that will reinforce and support one another in their implementation. We must ensure, however, that risk reduction that is credited in one rulemaking is not also credited in another. For a more detailed discussion on the benefit assessment and how we addressed the potential to double-count the risk reduced, refer to ''Benefit Assessment'' in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

We determined annual risk points reduced for each of the six interim rules using the N–RAT. The benefits are apportioned among the Vessel, Facility, OCS Facility, AMS, and AIS requirements. As shown in Table 1, the implementation of Facility Security Plans for the affected population reduces 473,659 risk points annually through 2012. The benefits attributable for part 101—General Provisions—were not considered separately since it is an overarching section for all the parts.

TABLE 1.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES

Maritime entity	Annual risk points reduced by rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
Vessels	778,633	3,385	3,385	3,385	1,448
Facilities	2,025	469,686	.....	2,025	.....

TABLE 1.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES—Continued

Maritime entity	Annual risk points reduced by rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
OCS Facilities	41	.....	9,903	.....	.....
Port Areas	587	587	.....	129,792	105
Total	781,285	473,659	13,288	135,202	1,553

Once we determined the annual risk points reduced, we discounted these estimates to their present value (seven percent discount rate, 2003–2012) so that they could be compared to the costs. We presented the cost effectiveness, or dollars per risk point reduced, in two ways: First, we compared the first-year cost and first-year benefit because first-year cost is the highest in our assessment as companies develop security plans and purchase equipment. Second, we compared the 10-year PV cost and the 10-year PV benefit. The results of our assessment are presented in Table 2.

TABLE 2.—FIRST-YEAR AND 10-YEAR PV COST AND BENEFIT OF THE INTERIM RULES

Item	Interim rule				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS [1]
First-Year Cost (millions)	$218	$1,125	$3	$120	$41
First-Year Benefit	781,285	473,659	13,288	135,202	1,553
First-Year Cost Effectiveness ($/Risk Point Reduced)	$279	$2,375	$205	$890	$26,391
10-Year PV Cost (millions)	$1,368	$5,399	$37	$477	$42
10-Year PV Benefit	5,871,540	3,559,655	99,863	1,016,074	11,671
10-Year PV Cost Effectiveness ($/Risk Point Reduced)	$233	$1,517	$368	$469	$3,624

[1] Cost less monetized safety benefit.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this interim 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. This interim rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this interim rule is exempt, we have reviewed it for potential economic impacts on small entities. An Initial Regulatory Flexibility Analysis discussing the impact of this interim rule on small entities is available in the docket where indicated under **ADDRESSES.**

Our assessment (copy available in the docket) concludes that implementing this interim rule may have a significant economic impact on a substantial number of small entities.

There are approximately 1,200 companies that own facilities that will be affected by the interim rule. We researched these companies, and found revenue and business size data for 581 of them (48 percent). Of the 581, we determined that 296 are small entities according to Small Business Administration standards.

The cost of the interim rule to each facility is dependent on the security measures already in place at each facility and on the relevant risk to a maritime transportation security incident. The interim rule calls for specific security measures to be in place at each affected facility. We realize, however, that most facilities already have implemented security measures that may satisfy the requirements of this rule. For example, we note that every facility will develop a Facility Security Assessment and a Facility Security Plan, but not all of them may need to install or upgrade fences or lighting equipment.

For this reason, we analyzed the small entities under two scenarios, a higher cost and lower cost scenarios. The higher cost scenario uses an estimated initial cost of $1,942,500 and its corresponding annual cost of $742,700. The higher cost scenario assumes extensive capital improvements will be undertaken by the facilities in addition to the cost of complying with the minimum requirements (assigning Facility Security Officers, drafting Facility Security Assessments, drafting Facility Security Plans, conducting Training, performing Drills, and completing Declarations of Security). The lower cost scenario used an initial cost of $133,500 and annual cost of $156,800 for complying with the minimum requirements in the interim rule.

In the higher cost scenario, we estimate that the annual revenues of 94 percent of the small entities may be impacted initially by more than 5 percent, while the annual revenues of 80 percent of the small entities may be impacted annually by more than 5 percent. In the lower cost scenario, we found that the annual revenues of 57 percent of the small entities may be impacted initially and annually by more than 5 percent.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LT Gregory Purvis by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–

1103, or electronic mail *msregs@comdt.uscg.mil.*

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

Collection of Information

This interim rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This interim rule modifies an existing OMB-approved collection—1625–0077 [formerly 2115–0557]. A summary of the revised collection follows.

Title: Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077.

Summary of the Collection of Information: The Coast Guard requires facilities to draft and maintain Facility Security Assessments and Facility Security Plans. It also requires that, under certain circumstances, documentation and letters be provided to the Coast Guard to ensure compliance with the security requirements. Finally, the Coast Guard requires that a Declaration of Security be completed between facilities and vessels handling certain types of cargo.

Need for Information: The primary need for information is to identify the adequate security mitigating measures that will be implemented when needed. Additionally, the Coast Guard intends to collect a summary of the vulnerabilities and selected security measures from the facilities regulated under this rule. The data will be submitted on form CG–6025, Facility Vulnerability and Security Measures Summary. Electronic submission when available will be accepted and encouraged. The form must be included in the Facility Security Plan as an annex to assist COTPs in the development of the Area Maritime Security Plan.

Proposed Use of Information: The information will be used to identify and communicate the security mitigating measures to the Coast Guard and necessary personnel. Declarations of Security will be used by some facilities and vessels to identify and delineate the security responsibilities between a vessel and a facility.

Description of the Respondents: The Facility Security Officer or another designated person is responsible for developing the Facility Security Assessment and the Facility Security Plan. For some facilities, the Facility Security Officer will also complete a Declaration of Security.

Number of Respondents: 4,965 Facility Security Officers.

Frequency of Response: Facility Security Assessments and Facility Security Plans are to be submitted for approval initially, and will be reviewed annually. Declarations of Security are to be completed whenever certain vessels are being serviced by a facility.

Burden of Response: The burden of developing each Facility Security Assessment and each Facility Security Plan is estimated to take 80 hours for some facilities and 40 hours for others. Updating each assessment or plan is estimated to take 4 hours for some facilities and 2 hours for others. Each Declaration of Security is expected to be 15 minutes.

Estimate of Total Annual Burden: Facility Security Assessments and Facility Security Plans will have a total burden in the initial year of 528,240 hours (264,120 for the assessments and 264,120 for the plans). Annually, the total burden of the assessments and the plans is 26,412 hours (13,206 for the assessments and 13,206 for the plans). Declarations of Security will have an annual burden of 581,775 hours. The total burden hours for this interim rule are 528,240 hours in the initial year, and 608,187 hours in subsequent years. For a summary of all revisions to this existing OMB-approved collection, refer to *Collection of Information* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register.**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this interim rule to the Office of Management and Budget (OMB) for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for ''emergency processing'' of our request. We received OMB approval for the collection of information on June 16, 2003. It is valid until December 31, 2003.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES,** by the date under **DATES.**

You need not respond to a collection of information unless it displays a currently valid control number from OMB. We received OMB approval for the collection of information on June 16, 2003. It is valid until December 31, 2003.

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. See the ''Federalism'' section in the interim rule preamble titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register,** for a detailed of the analysis under this Executive Order.

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. This rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the U.S.

Taking of Private Property

This interim rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental

Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this interim 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. Although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

This interim rule has a positive effect on the supply, distribution, and use of energy. The interim rule provides for security assessments, plans, procedures, and standards, which will prove beneficial for the supply, distribution, and use of energy at increased levels of maritime security.

Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it would likely create obstacles to the foreign commerce of the U.S. However, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the security of the U.S., any obstacles created by the regulation are not considered unnecessary obstacles.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a) and (34)(c), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This interim rule concerns security assessments, plans, training, and the establishment of security positions that will contribute to a higher level of marine safety and security for U.S. ports. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION.**

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this rule will be done in conjunction with appropriate State coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

List of Subjects in 33 CFR Part 105

Facilities, Maritime security, Reporting and recordkeeping requirements, Security measures.

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, U.S. Coast Guard, Commandant.

■ For the reasons discussed in the preamble, the Coast Guard adds part 105 to subchapter H of chapter I of title 33 in the CFR to read as follows:

PART 105–FACILITY SECURITY

Subpart A-General

Sec.

105.100 Definitions.
105.105 Applicability.
105.106 Public access areas.
105.110 Exemptions.
105.115 Compliance dates.
105.120 Compliance documentation.
105.125 Noncompliance.
105.130 Waivers.
105.135 Equivalents.
105.140 Alternative Security Program.
105.145 Maritime Security (MARSEC) Directive.
105.150 Right to appeal.

Subpart B—Facility Security Requirements

105.200 Owner or operator.
105.205 Facility Security Officer (FSO).
105.210 Facility personnel with security duties.
105.215 Security training for all other facility personnel.
105.220 Drill and exercise requirements.
105.225 Facility recordkeeping requirements.
105.230 Maritime Security (MARSEC) Level coordination and implementation.
105.235 Communications.
105.240 Procedures for interfacing with vessels.
105.245 Declaration of Security (DoS).
105.250 Security systems and equipment maintenance.
105.255 Security measures for access control.
105.260 Security measures for restricted areas.
105.265 Security measures for handling cargo.
105.270 Security measures for delivery of vessel stores and bunkers.
105.275 Security measures for monitoring.
105.280 Security incident procedures.
105.285 Additional requirements—passenger and ferry facilities.
105.290 Additional requirements—cruise ship terminals.
105.295 Additional requirements—Certain Dangerous Cargo (CDC) facilities.
105.296 Additional requirements—barge fleeting facilities.

Subpart C—Facility Security Assessment (FSA)

105.300 General.
105.305 Facility Security Assessment (FSA) requirements.
105.310 Submission requirements.

Subpart D—Facility Security Plan (FSP)

105.400 General.
105.405 Format and content of the Facility Security Plan (FSP).
105.410 Submission and approval.
105.415 Amendment and audit.

Appendix A to part 105—Facility Vulnerability and Security Measure Summary (CG–6025).

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1,6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.

Subpart A—General

§ 105.100 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

§ 105.105 Applicability.

(a) The requirements in this part apply to the owner or operator of any U.S.:

(1) Facility subject to 33 CFR parts 126, 127, or 154;

(2) Facility that receives vessels certificated to carry more than 150 passengers;

(3) Facility that receives vessels subject to the International Convention for Safety of Life at Sea, 1974, or that are commercial vessels subject to subchapter I of title 46, Code of Federal Regulations, greater than 100 gross register tons on international voyages, including vessels solely navigating the Great Lakes; or

(4) Fleeting facility that receives barges carrying, in bulk, cargoes regulated by subchapters D and O of chapter I, title 46, Code of Federal Regulations or Certain Dangerous Cargoes.

(b) An owner or operator of any facility not covered in paragraph (a) of this section is subject to parts 101 through 103 of this subchapter.

(c) This part does not apply to the owner or operator of the following U.S. facilities:

(1) A facility owned and operated by the U.S. that is used primarily for military purposes.

(2) An oil and natural gas production, exploration, or development facility regulated by 33 CFR parts 126 or 154 if:

(i) The facility is engaged solely in the exploration, development, or production of oil and natural gas; and

(ii) The facility does not meet or exceed the operating conditions in § 106.105 of this subchapter;

(3) A facility that supports the production, exploration, or development of oil and natural gas regulated by 33 CFR parts 126 or 154 if:

(i) The facility is engaged solely in the support of exploration, development, or production of oil and natural gas; and

(ii) The facility transports or stores quantities of hazardous materials that do not meet and exceed those specified in 49 CFR 172.800(b)(1) through (6); or

(iii) The facility stores less than 42,000 gallons of cargo regulated by 33 CFR part 154;

(4) A mobile facility regulated by 33 CFR part 154; or

(5) An isolated facility that receives materials regulated by 33 CFR parts 126 or 154 by vessel due to the lack of road access to the facility and does not distribute the material through secondary marine transfers.

§ 105.106 Public access areas.

(a) A facility serving ferries and passenger vessels certificated to carry more than 150 passengers, other than cruise vessels, may designate an area within the facility as a public access area.

(b) A public access area is a defined space within a facility that is open to all persons and provides access through the facility from public thoroughfares to the vessel.

§ 105.110 Exemptions.

(a) An owner or operator of any barge fleeting facility subject to this part is exempt from complying with § 105.265, Security measures for handling cargo; and § 105.270, Security measures for delivery of vessel stores and bunkers.

(b) A public access area designated under § 105.106 is exempt from the requirements for screening and identification of persons in § 105.255(c), (e)(1), and (e)(3).

§ 105.115 Compliance dates.

(a) On or before December 29, 2003, each facility owner or operator must submit to the cognizant COTP for each facility a Facility Security Plan (FSP) described in subpart D of this part for review and approval.

(b) On or before June 30, 2004, each facility owner or operator must be operating in compliance with this part.

§ 105.120 Compliance documentation.

Each facility owner or operator subject to this part must ensure, no later than July 1, 2004, that copies of the following documentation are available at the facility and are made available to the Coast Guard upon request:

(a) The approved Facility Security Plan (FSP), as well as any approved revisions or amendments thereto, and a letter of approval from the COTP dated within the last 5 years;

(b) The FSP submitted for approval and an acknowledgement letter from the COTP stating that the Coast Guard is currently reviewing the FSP submitted for approval, and that the facility may continue to operate so long as the facility remains in compliance with the submitted FSP; or

(c) For facilities operating under a Coast Guard-approved Alternative Security Program as provided in § 105.140, a copy of the Alternative Security Program the facility is using and a letter signed by the facility owner or operator, stating which Alternative Security Program the facility is using and certifying that the facility is in full compliance with that program.

§ 105.125 Noncompliance.

When a facility is not in compliance with the requirements of this part, the facility owner or operator must notify the cognizant COTP and request a waiver to continue operations.

§ 105.130 Waivers.

Any facility owner or operator may apply for a waiver of any requirement of this part that the facility owner or operator considers unnecessary in light of the nature or operating conditions of the facility, prior to operating. A request for a waiver must be submitted in writing with justification to the Commandant (G–MP) at 2100 Second St., SW., Washington, DC 20593. The Commandant (G–MP) may require the facility owner or operator to provide data for use in determining the validity of the requested waiver. The Commandant (G–MP) may grant, in writing, a waiver with or without conditions only if the waiver will not reduce the overall security of the facility, its employees, visiting vessels, or ports. The Commandant (G–MP) may grant a waiver with or without written conditions only if the waiver will not reduce the overall security of the facility, its employees, visiting vessels, or port.

§ 105.135 Equivalents.

For any measure required by this part, the facility owner or operator may propose an equivalent as provided in § 101.130 of this subchapter.

§ 105.140 Alternative Security Program.

(a) A facility owner or operator may use an Alternative Security Program approved under § 101.120 of this subchapter if:

(1) The Alternative Security Program is appropriate to that facility;

(2) The Alternative Security Program is implemented in its entirety.

(b) A facility owner or operator using an Alternative Security Program approved under § 101.120 of this subchapter must complete and submit to the cognizant COTP a Facility Vulnerability and Security Measures Summary (Form CG–6025) in appendix A to part 105—Facility Vulnerability and Security (CG–6025).

§ 105.145 Maritime Security (MARSEC) Directive.

Each facility owner or operator subject to this part must comply with any instructions contained in a MARSEC Directive issued under § 101.405 of this subchapter.

§ 105.150 Right to appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal as described in § 101.420 of this subchapter.

Subpart B—Facility Security Requirements

§ 105.200 Owner or operator.

(a) Each facility owner or operator must ensure that the facility operates in compliance with the requirements of this part.

(b) For each facility, the facility owner or operator must:

(1) Define the security organizational structure and provide each person exercising security duties and responsibilities within that structure the support needed to fulfill those obligations;

(2) Designate, in writing, by name or by title, a Facility Security Officer (FSO) and identify how the officer can be contacted at any time;

(3) Ensure that a Facility Security Assessment (FSA) is conducted;

(4) Ensure the development and submission for approval of a Facility Security Plan (FSP);

(5) Ensure that the facility operates in compliance with the approved FSP;

(6) Ensure that adequate coordination of security issues takes place between the facility and vessels that call on it, including the execution of a Declaration of Security (DoS) as required by this part;

(7) Ensure coordination of shore leave for vessel personnel or crew change-out, as well as access through the facility for visitors to the vessel (including representatives of seafarers' welfare and labor organizations), with vessel operators in advance of a vessel's arrival;

(8) Ensure, within 12 hours of notification of an increase in MARSEC Level, implementation of the additional security measures required for the new MARSEC Level; and

(9) Ensure the report of all breaches of security and security incidents to the National Response Center in accordance with part 101 of this subchapter.

§ 105.205 Facility Security Officer (FSO).

(a) *General.* (1) The FSO may perform other duties within the owner's or operator's organization, provided he or she is able to perform the duties and responsibilities required of the FSO.

(2) The same person may serve as the FSO for more than one facility, provided the facilities are in the same COTP zone and are not more than 50 miles apart. If a person serves as the FSO for more than one facility, the name of each facility for which he or she is the FSO must be listed in the Facility Security Plan (FSP) of each facility for which or she is the FSO.

(3) The FSO may assign security duties to other facility personnel; however, the FSO retains the responsibility for these duties.

(b) *Qualifications.* (1) The FSO must have general knowledge, through training or equivalent job experience, in the following:

(i) Security organization of the facility;

(ii) General vessel and facility operations and conditions;

(iii) Vessel and facility security measures, including the meaning and the requirements of the different MARSEC Levels;

(iv) Emergency preparedness, response, and contingency planning;

(v) Security equipment and systems, and their operational limitations; and

(vi) Methods of conducting audits, inspections, control, and monitoring techniques.

(2) In addition to knowledge and training required in paragraph (b)(1) of this section, the FSO must have knowledge of and receive training in the following, as appropriate:

(i) Relevant international laws and codes, and recommendations;

(ii) Relevant government legislation and regulations;

(iii) Responsibilities and functions of local, State, and Federal law enforcement agencies;

(iv) Risk assessment methodology;

(v) Methods of facility security surveys and inspections;

(vi) Instruction techniques for security training and education, including security measures and procedures;

(vii) Handling sensitive security information and security related communications;

(viii) Current security threats and patterns;

(ix) Recognizing and detecting dangerous substances and devices;

(x) Recognizing characteristics and behavioral patterns of persons who are likely to threaten security;

(xi) Techniques used to circumvent security measures;

(xii) Conducting physical searches and non-intrusive inspections;

(xiii) Conducting security drills and exercises, including exercises with vessels; and

(xiv) Assessing security drills and exercises.

(c) *Responsibilities.* In addition to those responsibilities and duties specified elsewhere in this part, the FSO must, for each facility for which he or she has been designated:

(1) Ensure that the Facility Security Assessment (FSA) is conducted;

(2) Ensure the development and implementation of a FSP;

(3) Ensure that an annual audit is conducted, and if necessary if the FSA and FSP are updated;

(4) Ensure the FSP is exercised per § 105.220 of this part;

(5) Ensure that regular security inspections of the facility are conducted;

(6) Ensure the security awareness and vigilance of the facility personnel;

(7) Ensure adequate training to personnel performing facility security duties;

(8) Ensure that occurrences that threaten the security of the facility are recorded and reported to the owner or operator;

(9) Ensure the maintenance of records required by this part;

(10) Ensure the preparation and the submission of any reports as required by this part;

(11) Ensure the execution of any required Declarations of Security with Vessel Security Officers;

(12) Ensure the coordination of security services in accordance with the approved FSP;

(13) Ensure that security equipment is properly operated, tested, calibrated, and maintained;

(14) Ensure the recording and reporting of attainment changes in MARSEC Levels to the owner or operator and the cognizant COTP;

(15) When requested, ensure that the Vessel Security Officers receive assistance in confirming the identity of visitors and service providers seeking to board the vessel through the facility;

(16) Ensure notification, as soon as possible, to law enforcement personnel and other emergency responders to permit a timely response to any transportation security incident;

(17) Ensure that the FSP is submitted to the cognizant COTP for approval, as well as any plans to change the facility or facility infrastructure prior to amending the FSP; and

(18) Ensure that all facility personnel are briefed of changes in security conditions at the facility.

§ 105.210 Facility personnel with security duties.

Facility personnel responsible for security duties must have knowledge, through training or equivalent job experience, in the following, as appropriate:

(a) Knowledge of current security threats and patterns;

(b) Recognition and detection of dangerous substances and devices;

(c) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;

(d) Techniques used to circumvent security measures;

(e) Crowd management and control techniques;

(f) Security related communications;

(g) Knowledge of emergency procedures and contingency plans;

(h) Operation of security equipment and systems;

(i) Testing, calibration, and maintenance of security equipment and systems;

(j) Inspection, control, and monitoring techniques;

(k) Relevant provisions of the Facility Security Plan (FSP);

(l) Methods of physical screening of persons, personal effects, baggage, cargo, and vessel stores; and

(m) The meaning and the consequential requirements of the different MARSEC Levels.

§ 105.215 Security training for all other facility personnel.

All other facility personnel, including contractors, whether part-time, full-time, temporary, or permanent, must have knowledge of, through training or equivalent job experience, in the following:

(a) Relevant provisions of the Facility Security Plan (FSP);

(b) The meaning and the consequential requirements of the different MARSEC Levels as they apply to them, including emergency procedures and contingency plans;

(c) Recognition and detection of dangerous substances and devices;

(d) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security; and

(e) Techniques used to circumvent security measures.

§ 105.220 Drill and exercise requirements.

(a) *General*. Drills and exercises must test the proficiency of facility personnel in assigned security duties at all MARSEC Levels and the effective implementation of the Facility Security Plan (FSP). They must enable the Facility Security Officer (FSO) to identify any related security deficiencies that need to be addressed.

(b) *Drills*.—(1) The FSO must ensure that at least one security drill is conducted every 3 months. Security drills may be held in conjunction with non-security drills, where appropriate.

(2) Drills must test individual elements of the FSP, including response to security threats and incidents. Drills should take into account the types of operations of the facility, facility personnel changes, the type of vessel the facility is serving, and other relevant circumstances. Examples of drills include unauthorized entry to a restricted area, response to alarms, and notification of law enforcement authorities.

(3) If a vessel is moored at the facility on the date the facility has planned to conduct any drills, the facility cannot require the vessel or vessel personnel to be a part of or participate in the facility's scheduled drill.

(c) *Exercises*.—(1) Exercises must be conducted at least once each calendar year, with no more than 18 months between exercises.

(2) Exercises may be:

(i) Full scale or live;

(ii) Tabletop simulation or seminar;

(iii) Combined with other appropriate exercises; or

(iv) A combination of the elements in paragraphs (c)(2)(i) through (iii) of this section.

(3) Exercises may be facility-specific or part of a cooperative exercise program with applicable facility and vessel security plans or comprehensive port exercises.

(4) Each exercise must test communication and notification procedures, and elements of coordination, resource availability, and response.

(5) Exercises are a full test of the security program and must include substantial and active participation of FSOs, and may include government authorities and vessels visiting the facility. Requests for participation of Company and Vessel Security Officers in joint exercises should consider the security and work implications for the vessel.

§ 105.225 Facility recordkeeping requirements.

(a) Unless otherwise specified in this section, the Facility Security Officer (FSO) must keep records of the activities as set out in paragraph (b) of this section for at least 2 years and make them available to the Coast Guard upon request.

(b) Records required by this section may be kept in electronic format. If kept in an electronic format, they must be protected against unauthorized deletion, destruction, or amendment. The following records must be kept:

(1) *Training*. For each security training session, the date of each session, duration of session, a description of the training, and a list of attendees;

(2) *Drills and exercises*. For each drill or exercise, the date held, description of drill or exercise, list of participants, and any best practices or lessons learned which may improve the Facility Security Plan (FSP);

(3) *Incidents and breaches of security*. For each incident or breach of security, the date and time of occurrence, location within the facility, description of incident or breaches, to whom it was reported, and description of the response;

(4) *Changes in MARSEC Levels.* For each change in MARSEC Level, the date and time of notification received, and time of compliance with additional requirements;

(5) *Maintenance, calibration, and testing of security equipment.* For each occurrence of maintenance, calibration, and testing, record the date and time, and the specific security equipment involved;

(6) *Security threats.* For each security threat, the date and time of occurrence, how the threat was communicated, who received or identified the threat, description of threat, to whom it was reported, and description of the response;

(7) *Declaration of Security (DoS)* A copy of each single-visit DoS and a copy of each continuing DoS for at least 90 days after the end of its effective period; and

(8) *Annual audit of the FSP.* For each annual audit, a letter certified by the FSO stating the date the audit was completed.

(c) Any record required by this part must be protected from unauthorized access or disclosure.

§ 105.230 Maritime Security (MARSEC) Level coordination and implementation.

(a) The facility owner or operator must ensure the facility operates in compliance with the security requirements in this part for the MARSEC Level in effect for the port.

(b) When notified of an increase in the MARSEC Level, the facility owner and operator must ensure:

(1) Vessels moored to the facility and vessels scheduled to arrive at the facility within 96 hours of the MARSEC Level change are notified of the new MARSEC Level and the Declaration of Security is revised as necessary;

(2) The facility complies with the required additional security measures within 12 hours; and

(3) The facility reports compliance or noncompliance to the COTP.

(c) For MARSEC Levels 2 and 3, the Facility Security Officer must inform all facility personnel about identified threats, and emphasize reporting procedures and stress the need for increased vigilance.

(d) An owner or operator whose facility is not in compliance with the requirements of this section, must inform the COTP and obtain approval prior to interfacing with a vessel or continuing operations.

(e) At MARSEC Level 3, in addition to the requirements in this part, a

facility owner or operator may be required to implement additional measures, pursuant to 33 CFR part 6, 160, or 165, as appropriate, which may include but are not limited to:

(1) Use of waterborne security patrol;

(2) Use of armed security personnel to control access to the facility and to deter, to the maximum extent practical, a transportation security incident; and

(3) Examination of piers, wharves, and similar structures at the facility for the presence of dangerous substances or devices underwater or other threats.

§ 105.235 Communications.

(a) The Facility Security Officer must have a means to effectively notify facility personnel of changes in security conditions at the facility.

(b) Communication systems and procedures must allow effective and continuous communications between the facility security personnel, vessels interfacing with the facility, the cognizant COTP, and national and local authorities with security responsibilities.

(c) At each active facility access point, provide a means of contacting police, security control, or an emergency operations center, by telephones, cellular phones, and/or portable radios, or other equivalent means.

(d) Facility communications systems must have a backup means for both internal and external communications.

§ 105.240 Procedures for interfacing with vessels.

The facility owner or operator must ensure that there are measures for interfacing with vessels at all MARSEC Levels.

§ 105.245 Declaration of Security (DoS).

(a) Each facility owner or operator must ensure procedures are established for requesting a DoS and for handling DoS requests from a vessel.

(b) At MARSEC Level 1, a facility receiving a cruise ship or a manned vessel carrying Certain Dangerous Cargo, in bulk, must comply with the following:

(1) Prior to the arrival of a vessel to the facility, the Facility Security Officer (FSO) and Master, Vessel Security Officer (VSO), or their designated representatives must coordinate security needs and procedures, and agree upon the contents of the DoS for the period of time the vessel is at the facility; and

(2) Upon the arrival of the vessel at the facility, the FSO and Master, VSO, or their designated representative, must sign the written DoS.

(c) Neither the facility nor the vessel may embark or disembark passengers, nor transfer cargo or vessel stores until the DoS has been signed and implemented.

(d) At MARSEC Levels 2 and 3, the FSOs of facilities interfacing with manned vessels subject to part 104 of this subchapter must sign and implement DoSs.

(e) At MARSEC Levels 1 and 2, FSOs of facilities that frequently interface with the same vessel may implement a continuing DoS for multiple visits, provided that:

(1) The DoS is valid for a specific MARSEC Level;

(2) The effective period at MARSEC Level 1 does not exceed 90 days; and

(3) The effective period at MARSEC Level 2 does not exceed 30 days.

(f) When the MARSEC Level increases beyond that contained in the DoS, the continuing DoS is void and a new DoS must be executed in accordance with this section.

(g) A copy of all currently valid continuing DoSs must be kept with the Facility Security Plan.

(h) The COTP may require, at any time, at any MARSEC Level, any facility subject to this part to implement a DoS with the VSO prior to any vessel-to-facility interface when he or she deems it necessary.

§ 105.250 Security systems and equipment maintenance.

(a) Security systems and equipment must be in good working order and inspected, tested, calibrated, and maintained according to manufacturers' recommendations.

(b) Security systems must be regularly tested in accordance with the manufacturers' recommendations; noted deficiencies corrected promptly; and the results recorded as required in § 105.225 of this subpart.

(c) The FSP must include procedures for identifying and responding to security system and equipment failures or malfunctions.

§ 105.255 Security measures for access control.

(a) *General.* The facility owner or operator must ensure the implementation of security measures to:

(1) Deter the unauthorized introduction of dangerous substances and devices, including any device intended to damage or destroy persons, vessels, facilities, or ports;

(2) Secure dangerous substances and devices that are authorized by the owner or operator to be on the facility; and

(3) Control access to the facility.

(b) The facility owner or operator must ensure that:

(1) The locations where restrictions or prohibitions that prevent unauthorized access are applied for each MARSEC Level. Each location allowing means of access to the facility must be addressed;

(2) The identification of the type of restriction or prohibition to be applied and the means of enforcing them;

(3) The means of identification required to allow access to the facility and for individuals and vehicles to remain on the facility without challenge are established; and

(4) The identification of the locations where persons, personal effects and vehicle screenings are to be conducted. The designated screening areas should be covered to provide for continuous operations regardless of the weather conditions.

(c) The facility owner or operator must ensure that an identification system is established for checking the identification of facility personnel or other persons seeking access to the facility that:

(1) Allows identification of authorized and unauthorized persons at any MARSEC Level;

(2) Is coordinated, when practicable, with identification systems of vessels that use the facility;

(3) Is updated regularly;

(4) Uses disciplinary measures to discourage abuse;

(5) Allows temporary or continuing access for facility personnel and visitors, including seafarers' chaplains and union representatives, through the use of a badge or other system to verify their identity; and

(6) Allows certain long-term, frequent vendor representatives to be treated more as employees than as visitors.

(d) The facility owner or operator must establish in the approved Facility Security Plan (FSP) the frequency of application of any access controls, particularly if they are to be applied on a random or occasional basis.

(e) *MARSEC Level 1.* The facility owner or operator must ensure the following security measures are implemented at the facility:

(1) Screen persons, baggage (including carry-on items), personal effects, and vehicles, including delivery vehicles for dangerous substances and devices at the rate specified in the approved FSP;

(2) Conspicuously post signs that describe security measures currently in effect and clearly state that:

(i) Entering the facility is deemed valid consent to screening or inspection; and

(ii) Failure to consent or submit to screening or inspection will result in denial or revocation of authorization to enter;

(3) Check the identification of any person seeking to enter the facility,

including vessel passengers and crew, facility employees, vendors, personnel duly authorized by the cognizant authority, and visitors. This check includes confirming the reason for entry by examining at least one of the following:

(i) Joining instructions;

(ii) Passenger tickets;

(iii) Boarding passes;

(iv) Work orders, pilot orders, or surveyor orders;

(v) Government identification; or

(vi) Visitor badges issued in accordance with an identification system required in paragraph (c) of this section;

(4) Deny or revoke a person's authorization to be on the facility if the person is unable or unwilling, upon the request of facility personnel, to establish his or her identity or to account for his or her presence. Any such incident must be reported in compliance with this part;

(5) Designate restricted areas and provide appropriate access controls for these areas;

(6) Identify access points that must be secured or attended to deter unauthorized access;

(7) Deter unauthorized access to the facility and to designated restricted areas within the facility;

(8) Screen by hand or device, such as x-ray, all unaccompanied baggage prior to loading onto a vessel; and

(9) Secure unaccompanied baggage after screening in a designated restricted area and maintain security control during transfers between the facility and a vessel.

(f) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in their approved FSP. These additional security measures may include:

(1) Increasing the frequency and detail of the screening of persons, baggage, and personal effects for dangerous substances and devices entering the facility;

(2) X-ray screening of all unaccompanied baggage;

(3) Assigning additional personnel to guard access points and patrol the perimeter of the facility to deter unauthorized access;

(4) Limiting the number of access points to the facility by closing and securing some access points and providing physical barriers to impede movement through the remaining access points;

(5) Denying access to visitors who do not have a verified destination;

(6) Deterring waterside access to the facility, which may include, using waterborne patrols to enhance security around the facility; or

(7) Screening vehicles and their contents for dangerous substances and devices at the rate specified for MARSEC Level 2 in the approved FSP.

(g) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, the facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in their approved FSP. These additional security measures may include:

(1) Screening all persons, baggage, and personal effects for dangerous substances and devices;

(2) Performing one or more of the following on unaccompanied baggage:

(i) Screen unaccompanied baggage more extensively; for example, x-raying from two or more angles;

(ii) Prepare to restrict or suspend handling unaccompanied baggage; or

(iii) Refuse to accept unaccompanied baggage;

(3) Being prepared to cooperate with responders and facilities;

(4) Granting access to only those responding to the security incident or threat thereof;

(5) Suspending access to the facility;

(6) Suspending cargo operations;

(7) Evacuating the facility;

(8) Restricting pedestrian or vehicular movement on the grounds of the facility; or

(9) Increasing security patrols within the facility.

§ 105.260 Security measures for restricted areas.

(a) *General.* The facility owner or operator must ensure the designation of restricted areas in order to:

(1) Prevent or deter unauthorized access;

(2) Protect persons authorized to be in the facility;

(3) Protect the facility;

(4) Protect vessels using and serving the facility;

(5) Protect sensitive security areas within the facility;

(6) Protect security and surveillance equipment and systems; and

(7) Protect cargo and vessel stores from tampering.

(b) *Designation of Restricted Areas.* The facility owner or operator must ensure restricted areas are designated within the facility. They must also ensure that all restricted areas are clearly marked and indicate that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security. The facility owner or operator may also designate the entire facility as a restricted area. Restricted areas must include, as appropriate:

(1) Shore areas immediately adjacent to each vessel moored at the facility;

(2) Areas containing sensitive security information, including cargo documentation;

(3) Areas containing security and surveillance equipment and systems and their controls, and lighting system controls; and

(4) Areas containing critical facility infrastructure, including:

(i) Water supplies;

(ii) Telecommunications;

(iii) Electrical system; and

(iv) Access points for ventilation and air-conditioning systems;

(5) Manufacturing or processing areas and control rooms;

(6) Locations in the facility where access by vehicles and personnel should be restricted;

(7) Areas designated for loading, unloading or storage of cargo and stores; and

(8) Areas containing cargo consisting of dangerous goods or hazardous substances, including certain dangerous cargoes.

(c) The owner or operator must ensure that all restricted areas have clearly established security measures to:

(1) Identify which facility personnel are authorized to have access;

(2) Determine which persons other than facility personnel are authorized to have access;

(3) Determine the conditions under which that access may take place;

(4) Define the extent of any restricted area;

(5) Define the times when access restrictions apply;

(6) Clearly mark all restricted areas and indicate that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security;

(7) Control the entry, parking, loading and unloading of vehicles;

(8) Control the movement and storage of cargo and vessel stores; and

(9) Control unaccompanied baggage or personal effects.

(d) *MARSEC Level 1.* At MARSEC Level 1, the facility owner or operator must ensure the implementation of security measures to prevent unauthorized access or activities within the area. These security measures may include:

(1) Restricting access to only authorized personnel;

(2) Securing all access points not actively used and providing physical

barriers to impede movement through the remaining access points;

(3) Assigning personnel to control access to restricted areas;

(4) Verifying the identification and authorization of all persons and all vehicles seeking entry;

(5) Patrolling or monitoring the perimeter of restricted areas;

(6) Using security personnel, automatic intrusion detection devices, surveillance equipment, or surveillance systems to detect unauthorized entry or movement within restricted areas;

(7) Directing the parking, loading, and unloading of vehicles within a restricted area;

(8) Controlling unaccompanied baggage and or personal effects after screening;

(9) Designating restricted areas for performing inspections of cargo and vessel stores while awaiting loading; and

(10) Designating temporary restricted areas to accommodate facility operations. If temporary restricted areas are designated, the FSP must include a requirement to conduct a security sweep of the designated temporary restricted area both before and after the area has been established.

(e) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in their approved FSP. These additional security measures may include:

(1) Increasing the intensity and frequency of monitoring and access controls on existing restricted access areas;

(2) Enhancing the effectiveness of the barriers or fencing surrounding restricted areas, by the use of patrols or automatic intrusion detection devices;

(3) Reducing the number of access points to restricted areas, and enhancing the controls applied at the remaining accesses;

(4) Restricting parking adjacent to vessels;

(5) Further restricting access to the restricted areas and movements and storage within them;

(6) Using continuously monitored and recorded surveillance equipment;

(7) Enhancing the number and frequency of patrols, including waterborne patrols undertaken on the boundaries of the restricted areas and within the areas; or

(8) Establishing and restricting access to areas adjacent to the restricted areas.

(f) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in their approved FSP. These additional security measures may include:

(1) Restricting access to additional areas;

(2) Prohibiting access to restricted areas, or

(3) Searching restricted areas as part of a security sweep of all or part of the facility.

§ 105.265 Security measures for handling cargo.

(a) *General.* The facility owner or operator must ensure that security measures relating to cargo handling, some of which may have to be applied in liaison with the vessel, are implemented in order to:

(1) Deter tampering;

(2) Prevent cargo that is not meant for carriage from being accepted and stored at the facility;

(3) Identify cargo that is approved for loading onto vessels interfacing with the facility;

(4) Include cargo control procedures at access points to the facility;

(5) Identify cargo that is accepted for temporary storage in a restricted area while awaiting loading or pick up;

(6) Restrict the entry of cargo to the facility that does not have a confirmed date for loading, as appropriate;

(7) Ensure the release of cargo only to the carrier specified in the cargo documentation;

(8) Coordinate security measures with the shipper or other responsible party in accordance with an established agreement and procedures;

(9) Create, update, and maintain a continuous inventory, including location, of all dangerous goods or hazardous substances from receipt to delivery within the facility, giving the location of those dangerous goods or hazardous substances; and

(10) Be able to check cargo entering the facility for dangerous substances and devices at the rate specified in the approved Facility Security Plan (FSP). Means to check cargo include:

(i) Visual examination;

(ii) Physical examination;

(iii) Detection devices, such as scanners; or

(iv) Canines.

(b) *MARSEC Level 1.* At MARSEC Level 1, the facility owner or operator must ensure the implementation of measures to:

(1) Routinely check cargo, cargo transport units, and cargo storage areas within the facility prior to, and during, cargo handling operations to deter tampering;

(2) Check that cargo, containers, or other cargo transport units entering the facility match the delivery note or equivalent cargo documentation;

(3) Screen vehicles; and

(4) Check seals and other methods used to prevent tampering upon entering the facility and upon storage within the facility.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved FSP. These additional security measures may include:

(1) Conducting check of cargo, containers or other cargo transport units, and cargo storage areas within the port facility for dangerous substances and devices to the facility and vessel;

(2) Intensifying checks, as appropriate, to ensure that only the documented cargo enters the facility, is temporarily stored there, and then loaded onto the vessel;

(3) Intensifying the screening of vehicles;

(4) Increasing frequency and detail in checking of seals and other methods used to prevent tampering;

(5) Segregating inbound cargo, outbound cargo, and vessel stores;

(6) Increasing the frequency and intensity of visual and physical inspections; or

(7) Limiting the number of locations where dangerous goods and hazardous substances, including certain dangerous cargoes, can be stored.

(d) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved FSP. These additional security measures may include:

(1) Restricting or suspending cargo movements or operations within all or part of the facility or specific vessels;

(2) Being prepared to cooperate with responders and vessels; or

(3) Verifying the inventory and location of any dangerous goods and hazardous substances, including certain dangerous cargoes, held within the facility and their location.

§ 105.270 Security measures for delivery of vessel stores and bunkers.

(a) *General.* The facility owner or operator must ensure that security

measures relating to the delivery of vessel stores and bunkers are implemented to:

(1) Check vessel stores for package integrity;

(2) Prevent vessel stores from being accepted without inspection;

(3) Deter tampering;

(4) For vessels that routinely use a facility, establish and execute standing arrangements between the vessel, its suppliers, and a facility regarding notification and the timing of deliveries and their documentation; and

(5) Check vessel stores by the following means:

(i) Visual examination;

(ii) Physical examination;

(iii) Detection devices, such as scanners; or

(iv) Canines.

(b) *MARSEC Level 1.* At MARSEC Level 1, the facility owner or operator must ensure the implementation of measures to:

(1) Screen vessel stores at the rate specified in the approved Facility Security Plan (FSP);

(2) Require advance notification of vessel stores or bunkers delivery, including a list of stores, delivery vehicle driver information, and vehicle registration information;

(3) Screen delivery vehicles at the frequencies specified in the approved FSP; and

(4) Escort delivery vehicles within the facility at the rate specified by the approved FSP.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved FSP. These additional security measures may include:

(1) Detailed screening of vessel stores;

(2) Detailed screening of all delivery vehicles;

(3) Coordinating with vessel personnel to check the order against the delivery note prior to entry to the facility;

(4) Ensuring delivery vehicles are escorted within the facility; or

(5) Restricting or prohibiting the entry of vessel stores that will not leave the facility within a specified period.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the facility owner and operator must ensure implementation of additional security measures, as specified for MARSEC Level 3 in the approved FSP. Examples of these additional security measures may include:

(1) Checking all vessel stores more extensively;

(2) Restricting or suspending delivery of vessel stores; or

(3) Refusing to accept vessel stores on the facility.

§ 105.275 Security measures for monitoring.

(a) *General.* The facility owner or operator must ensure the implementation of security measures in this section and have the capability to continuously monitor, through a combination of lighting, security guards, waterborne patrols, and automatic intrusion-detection devices, or surveillance equipment, as specified in the approved Facility Security Plan (FSP), the:

(1) Facility and its approaches, on land and water;

(2) Restricted areas within the facility; and

(3) Vessels at the facility and areas surrounding the vessels.

(b) *MARSEC Level 1.* At MARSEC Level 1, the facility owner or operator must ensure the security measures in this section are implemented at all times, including the period from sunset to sunrise and periods of limited visibility. For each facility, ensure monitoring capability that:

(1) When automatic intrusion-detection devices are used, activates an audible or visual alarm, or both, at a location that is continuously attended or monitored;

(2) Is able to function continually, including consideration of the possible effects of weather or of a power disruption;

(3) Monitors the facility area, including shore and waterside access to it;

(4) Monitors access points, barriers and restricted areas;

(5) Monitors access and movements adjacent to vessels using the facility, including augmentation of lighting provided by the vessel itself; and

(6) Limits lighting effects, such as glare, and their impact on safety, navigation, and other security activities.

(c) *MARSEC Level 2.* In addition to the security measures for MARSEC Level 1 in this section, at MARSEC Level 2, the facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved FSP. These additional measures may include:

(1) Increasing the coverage and intensity of surveillance equipment, including the provision of additional surveillance coverage;

(2) Increasing the frequency of foot, vehicle or waterborne patrols;

(3) Assigning additional security personnel to monitor and patrol; or

(4) Increasing the coverage and intensity of lighting, including the provision of additional lighting and coverage.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the facility owner or operator must also ensure implementation of additional security measures, as specified for MARSEC Level 3 in the approved FSP. These additional security measures may include:

(1) Switching on all lighting within, or illuminating the vicinity of, the facility;

(2) Switching on all surveillance equipment capable of recording activities within or adjacent to the facility;

(3) Maximizing the length of time such surveillance equipment can continue to record; or

(4) Complying with the instructions issued by those responding to the security incident.

§ 105.280 Security incident procedures.

For each MARSEC Level, the facility owner or operator must ensure the Facility Security Officer and facility security personnel are able to:

(a) Respond to security threats or breaches of security and maintain critical facility and vessel-to-facility interface operations;

(b) Evacuate the facility in case of security threats or breaches of security;

(c) Report security incidents as required in § 101.305 of this subchapter;

(d) Brief all facility personnel on possible threats and the need for vigilance, soliciting their assistance in reporting suspicious persons, objects, or activities; and

(e) Secure non-critical operations in order to focus response on critical operations.

§ 105.285 Additional requirements-passenger and ferry facilities.

(a) At MARSEC Level 1, the owner or operator of a passenger or ferry facility must ensure, in coordination with a vessel moored at the facility, that the following security measures are implemented in addition to the requirements of this part:

(1) In a facility with no public access area designated under § 105.106, establish separate areas to segregate unchecked persons and personal effects from checked persons and personal effects;

(2) Ensure that a defined percentage of vehicles to be loaded aboard are

screened prior to loading, in accordance with a MARSEC Directive or other orders issued by the Coast Guard;

(3) Ensure that all unaccompanied vehicles to be loaded on passenger vessels are screened prior to loading;

(4) Deny passenger access to restricted areas unless supervised by facility security personnel; and

(5) In a facility with a public access area designated under § 105.106, provide sufficient security personnel to monitor all persons within the area and conduct screening of persons and personal effects, as needed.

(b) At MARSEC Level 2, in addition to the requirements for MARSEC Level 1, the owner or operator of a passenger or ferry facility with no public access area designated under § 105.106 must ensure screening of additional passengers, baggage, and vehicles prior to boarding the vessel as specified in the approved FSP and Declaration of Security.

(c) At MARSEC Level 3, in addition to the requirements for MARSEC Level 1 and MARSEC Level 2 and in coordination with the vessel moored at the facility, the owner or operator of a passenger or ferry facility with no public access area designated under § 105.106 must ensure the following security measures:

(1) Screen and identify all persons;

(2) Screen all baggage; and

(3) Assign additional security personnel and patrols.

§ 105.290 Additional requirements-cruise ship terminals.

At all MARSEC Levels, in coordination with a vessel moored at the facility, the facility owner or operator must ensure the following security measures:

(a) Screen all persons, baggage, and personal effects for dangerous substances and devices;

(b) Check the identification of all persons seeking to board the vessel. This includes confirming the reason for boarding by examining joining instructions, passenger tickets, boarding passes, government identification or visitor badges, or work orders;

(c) Designate holding, waiting, or embarkation areas to segregate screened persons and their personal effects awaiting embarkation from unscreened persons and their personal effects;

(d) Provide additional security personnel to designated holding, waiting, or embarkation areas; and

(e) Deny passenger access to restricted areas unless supervised by facility security personnel.

§ 105.295 Additional requirements-Certain Dangerous Cargo (CDC) facilities.

(a) At all MARSEC Levels, owners or operators of CDC facilities must ensure the implementation of the following security measures in addition to the requirements of this part:

(1) Escort all visitors, contractors, vendors, and other non-facility employees at all times while on the facility, if access identification is not provided. Escort provisions do not apply to prearranged cargo deliveries;

(2) Control the parking, loading, and unloading of vehicles within a facility;

(3) Require security personnel to record or report their presence at key points during their patrols;

(4) Search unmanned or unmonitored waterfront areas for dangerous substances and devices prior to a vessel's arrival at the facility; and

(5) Provide an alternate or independent power source for security and communications systems.

(b) At MARSEC Level 2, in addition to the requirements for MARSEC Level 1, owners or operators of CDC facilities must ensure the implementation of the following security measures:

(1) Release cargo only in the presence of the Facility Security Officer (FSO) or a designated representative of the FSO; and

(2) Continuously guard or patrol restricted areas.

(c) At MARSEC Level 3, in addition to the requirements for MARSEC Level 1 and MARSEC Level 2, owners or operators of CDC facilities must ensure the facilities are continuously guarded and restricted areas are patrolled.

§ 105.296 Additional requirements-barge fleeting facilities.

(a) At MARSEC Level 1, in addition to the requirements of this part, an owner or operator of a barge fleeting facility must ensure the implementation of the following security measures:

(1) Designate an area within the fleeting facility to segregate those barges carrying Certain Dangerous Cargoes and cargoes listed in 46 CFR, subchapters D and O of chapter I, title 46, Code of Federal Regulations or Certain Dangerous Cargoes from all other barges in the fleeting facility;

(2) Maintain a current list of vessels and cargoes in the designated restricted area; and

(3) Ensure that at least one towing vessel is available to service the fleeting facility for every 100 barges within the facility.

(b) At MARSEC Level 2, in addition to the requirements of this part and MARSEC Level 1 requirements, an owner or operator of a barge fleeting facility must ensure security personnel are assigned to monitor or patrol the designated restricted area within the barge fleeting facility.

(c) At MARSEC Level 3, in addition to the requirements of this part and MARSEC Level 2 requirements, an owner or operator of a barge fleeting facility must ensure that both land and waterside perimeters of the designated restricted area within the barge fleeting facility are continuously monitored or patrolled.

Subpart C—Facility Security Assessment (FSA)

§ 105.300 General.

(a) The Facility Security Assessment (FSA) is a written document that is based on the collection of background information, the completion of an on-scene survey and an analysis of that information.

(b) A common FSA may be conducted for more than one similar facility provided the FSA reflects any facility-specific characteristics that are unique.

(c) Third parties may be used in any aspect of the FSA if they have the appropriate skills and if the Facility Security Officer (FSO) reviews and accepts their work.

(d) Those involved in a FSA must be able to draw upon expert assistance in the following areas, as appropriate:

(1) Knowledge of current security threats and patterns;

(2) Recognition and detection of dangerous substances and devices;

(3) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;

(4) Techniques used to circumvent security measures;

(5) Methods used to cause a security incident;

(6) Effects of dangerous substances and devices on structures and facility services;

(7) Facility security requirements;

(8) Facility and vessel interface business practices;

(9) Contingency planning, emergency preparedness, and response;

(10) Physical security requirements;

(11) Radio and telecommunications systems, including computer systems and networks;

(12) Marine or civil engineering; and

(13) Facility and vessel operations.

§ 105.305 Facility Security Assessment (FSA) requirements.

(a) *Background.* The facility owner or operator must ensure that the following background information, if applicable, is provided to the person or persons who will conduct the assessment:

(1) The general layout of the facility, including:

(i) The location of each active and inactive access point to the facility;

(ii) The number, reliability, and security duties of facility personnel;

(iii) Security doors, barriers, and lighting;

(iv) The location of restricted areas;

(v) The emergency and stand-by equipment available to maintain essential services;

(vi) The maintenance equipment, cargo spaces, storage areas, and unaccompanied baggage storage;

(vii) Location of escape and evacuation routes and assembly stations; and

(viii) Existing security and safety equipment for protection of personnel and visitors;

(2) Response procedures for fire or other emergency conditions;

(3) Procedures for monitoring facility and vessel personnel, vendors, repair technicians, and dock workers;

(4) Existing contracts with private security companies and existing agreements with local or municipal agencies;

(5) Procedures for controlling keys and other access prevention systems;

(6) Procedures for cargo and vessel stores operations;

(7) Response capability to security incidents;

(8) Threat assessments, including the purpose and methodology of the assessment, for the port in which the facility is located or at which passengers embark or disembark;

(9) Previous reports on security needs; and

(10) Any other existing security procedures and systems, equipment, communications, and facility personnel.

(b) *On-scene survey.* The facility owner or operator must ensure that an on-scene survey of each facility is conducted. The on-scene survey examines and evaluates existing facility protective measures, procedures, and operations to verify or collect the information required in paragraph (a) of this section.

(c) *Analysis and recommendations.* In conducting the FSA, the facility owner or operator must ensure that the FSO analyzes the facility background information and the on-scene survey, and considering the requirements of this part, provides recommendations to establish and prioritize the security measures that should be included in the FSP. The analysis must consider:

(1) Each vulnerability found during the on-scene survey including but not limited to:

(i) Waterside and shore-side access to the facility and vessel berthing at the facility;

(ii) Structural integrity of the piers, facilities, and associated structures;

(iii) Existing security measures and procedures, including identification systems;

(iv) Existing security measures and procedures relating to services and utilities;

(v) Measures to protect radio and telecommunication equipment, including computer systems and networks;

(vi) Adjacent areas that may be exploited during or for an attack;

(vii) Areas that may, if damaged or used for illicit observation, pose a risk to people, property, or operations within the facility;

(viii) Existing agreements with private security companies providing waterside and shore-side security services;

(ix) Any conflicting policies between safety and security measures and procedures;

(x) Any conflicting facility operations and security duty assignments;

(xi) Any enforcement and personnel constraints;

(xii) Any deficiencies identified during daily operations or training and drills; and

(xiii) Any deficiencies identified following security incidents or alerts, the report of security concerns, the exercise of control measures, or audits;

(2) Possible security threats, including but not limited to:

(i) Damage to or destruction of the facility or of a vessel moored at the facility;

(ii) Hijacking or seizure of a vessel moored at the facility or of persons on board;

(iii) Tampering with cargo, essential equipment or systems, or stores of a vessel moored at the facility;

(iv) Unauthorized access or use including the presence of stowaways;

(v) Smuggling dangerous substances and devices to the facility;

(vi) Use of a vessel moored at the facility to carry those intending to cause a security incident and their equipment;

(vii) Use of a vessel moored at the facility as a weapon or as a means to cause damage or destruction;

(viii) Blockage of entrances, locks, and approaches; and

(ix) Nuclear, biological, radiological, explosive, and chemical attack;

(3) Threat assessments by Government agencies;

(4) Vulnerabilities, including human factors, in the facility's infrastructure, policies and procedures;

(5) Any particular aspects of the facility, including the vessels using the facility, which make it likely to be the target of an attack;

(6) Likely consequences in terms of loss of life, damage to property, and economic disruption, including disruption to transportation systems, of an attack on or at the facility; and

(7) Locations where access restrictions or prohibitions will be applied for each MARSEC Level.

(d) *FSA report.* (1) The facility owner or operator must ensure that a written FSA report is prepared and included as part of the FSP. The report must contain:

(i) A summary of how the on-scene survey was conducted;

(ii) A description of existing security measures, including inspection, control and monitoring equipment, personnel identification documents and communication, alarm, lighting, access control, and similar systems;

(iii) A description of each vulnerability found during the on-scene survey;

(iv) A description of security measures that could be used to address each vulnerability;

(v) A list of the key facility operations that are important to protect; and

(vi) A list of identified weaknesses, including human factors, in the infrastructure, policies, and procedures of the facility.

(2) A FSA report must describe the following elements within the facility:

(i) Physical security;

(ii) Structural integrity;

(iii) Personnel protection systems;

(iv) Procedural policies;

(v) Radio and telecommunication systems, including computer systems and networks;

(vi) Relevant transportation infrastructure; and

(vii) Utilities.

§ 105.310 Submission requirements.

(a) A completed FSA report must be submitted with the Facility Security Plan required in § 105.415 of this part.

(b) A facility owner or operator may generate and submit a report that contains the Facility Security Assessment for more than one facility subject to this part, to the extent that they share similarities in design and operations, if authorized and approved by the cognizant COTP.

Subpart D—Facility Security Plan (FSP)

§ 5.400 General.

(a) The Facility Security Officer (FSO) must ensure a Facility Security Plan (FSP) is developed and implemented for each facility for which he or she is designated as FSO. The FSP:

(1) Must identify the FSO by name and position, and provide 24-hour contact information;

(2) Must be written in English;

(3) Must address each vulnerability identified in the Facility Security Assessment (FSA);

(4) Must describe security measures for each MARSEC Level; and

(5) May cover more than one facility to the extent that they share similarities in design and operations, if authorized and approved by the cognizant COTP.

(b) The FSP must be submitted for approval to the cognizant COTP in a written or electronic format. Format for submitting the FSP electronically can be found at *http://www.uscg.mil/HQ/MSC.*

(c) The FSP is sensitive security information and must be protected in accordance with 49 CFR part 1520.

(d) If the FSP is kept in an electronic format, procedures must be in place to prevent its unauthorized deletion, destruction, or amendment.

§ 105.405 Format and content of the Facility Security Plan (FSP).

(a) A facility owner or operator must ensure that the FSP consists of the individual sections listed in this paragraph (a). If the FSP does not follow the order as it appears in the list, the facility owner or operator must ensure that the FSP contains an index identifying the location of each of the following sections:

(1) Security administration and organization of the facility;

(2) Personnel training;

(3) Drills and exercises;

(4) Records and documentation;

(5) Response to change in MARSEC Level;

(6) Procedures for interfacing with vessels;

(7) Declaration of Security (DoS);

(8) Communications;

(9) Security systems and equipment maintenance;

(10) Security measures for access control, including designated public access areas;

(11) Security measures for restricted areas;

(12) Security measures for handling cargo;

(13) Security measures for delivery of vessel stores and bunkers;

(14) Security measures for monitoring;

(15) Security incident procedures;

(16) Audits and security plan amendments;

(17) Facility Security Assessment (FSA) report; and

(18) Facility Vulnerability and Security Measures Summary (Form CG–6025) in appendix A to part 105–Facility Vulnerability and Security Measures Summary (CG–6025).

(b) The facility owner or operator must ensure that the FSP describes in detail how each of the individual requirements of subpart B of this part will be met.

(c) The Facility Vulnerability and Security Measures Summary (Form CG–6025) must be completed using information in the FSA concerning identified vulnerabilities and information in the FSP concerning security measures in mitigation of these vulnerabilities.

§ 105.410 Submission and approval.

(a) On or before December 29, 2003, each facility owner or operator must either:

(1) Submit one copy of their Facility Security Plan (FSP) for review and approval to the cognizant COTP; or

(2) If implementing a Coast Guard approved Alternative Security Program, meet the requirements in § 101.120(b) of this subchapter.

(b) Facilities constructed on or after July 1, 2004, must comply with the requirements in paragraph (a) of this section 60 days prior to beginning operations.

(c) The cognizant COTP will examine each submission for compliance with this part and either:

(1) Approve it and specify any conditions of approval, returning to the submitter a letter stating its acceptance and any conditions, or

(2) Disapprove it, returning a copy to the submitter with a brief statement of the reasons for disapproval.

(d) An FSP may be submitted and approved to cover more than one facility where they share similarities in design and operations, if authorized and approved by the cognizant COTP.

(e) Each facility owner or operator that submits one FSP to cover two or more facilities of similar design and operation must address facility-specific information that includes the design and operational characteristics of each facility and must complete a separate Facility Vulnerability and Security Measures Summary (Form CG–6025), in appendix A to part 105—Facility Vulnerability and Security Measures Summary (CG–6025), for each facility covered by the plan.

(f) A FSP that is approved by the cognizant COTP is valid for five years from the date of its approval.

§ 105.415 Amendment and audit.

(a) *Amendments.* (1) Amendments to a FSP that is approved by the cognizant COTP may be initiated by:

(i) The facility owner or operator; or

(ii) The cognizant COTP upon a determination that an amendment is needed to maintain the facility's security. The cognizant COTP, who will give the facility owner or operator written notice and request that the facility owner or operator propose amendments addressing any matters specified in the notice. The facility owner or operator will have at least 60 days to submit its proposed amendments. Until amendments are approved, the facility owner or operator shall ensure temporary security measures are implemented to the satisfaction of the COTP.

(2) Proposed amendments must be submitted to the cognizant COTP. If initiated by the facility owner or operator, the proposed amendment must be submitted at least 30 days before the amendment is to take effect unless the cognizant COTP allows a shorter period. The cognizant COTP will approve or disapprove the proposed amendment in accordance with § 105.415 of this subpart.

(3) If there is a change in the owner or operator, the Facility Security Officer (FSO) must amend the Facility Security Plan (FSP) to include the name and contact information of the new facility owner or operator and submit the affected portion of the FSP for review and approval in accordance with § 105.415 if this subpart.

(b) *Audits.* (1) The FSO must ensure an audit of the FSP is performed annually, beginning no later than one year from the initial date of approval, and attach a letter to the FSP certifying that the FSP meets the applicable requirements of this part.

(2) The FSP must be audited if there is a change in the facility's ownership or operator, or if there have been modifications to the facility, including but not limited to physical structure, emergency response procedures, security measures, or operations.

(3) Auditing the FSP as a result of modifications to the facility may be limited to those sections of the FSP affected by the facility modifications.

(4) Unless impracticable due to the size and nature of the company or the facility, personnel conducting internal audits of the security measures specified in the FSP or evaluating its implementation must:

(i) Have knowledge of methods for conducting audits and inspections, and security, control, and monitoring techniques;

(ii) Not have regularly assigned security duties; and

(iii) Be independent of any security measures being audited.

(5) If the results of an audit require amendment of either the FSA or FSP, the FSO must submit, in accordance

with § 105.415 of this subpart, the amendments to the cognizant COTP for review and approval no later than 30 days after completion of the audit and a letter certifying that the amended FSP meets the applicable requirements of this part.

Appendix A to Part 105—Facility Vulnerability and Security Measures Summary (Form CG–6025)

BILLING CODE 4910–15–P

U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-6025 (05/03)	**FACILITY VULNERABILITY AND SECURITY MEASURES SUMMARY**	OMB APPROVAL NO. 1625-0077

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is 60 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MP), U.S. Coast Guard, 2100 2nd St, SW, Washington D.C. 20593-0001 or Office of Management and Budget, Paperwork Reduction Project (1625-0077), Washington, DC 20503.

FACILITY IDENTIFICATION

1. Name of Facility

2. Address of Facility

3. Latitude

4. Longitude

5. Captain of the Port Zone

6. Type of Operation (check all that apply)

- ☐ Break Bulk
- ☐ Dry Bulk
- ☐ Container
- ☐ RO-RO
- ☐ Petroleum
- ☐ Che ical
- ☐ LHG/LNG
- ☐ Explosiv es and other dangerous cargo
- ☐ Certain Dangerous Cargo
- ☐ Barge Fleeting
- ☐ Off hore upport
- ☐ Passengers (Subchapter H)
- ☐ a enger Ferrie
- ☐ a enger ubchapter K
- ☐ Military Supply
- ☐ If other, explain below:

VULNERABILITY AND SECURITY MEASURES

7a. Vulnerability	7b. Vulnerability Category ☐ If other, explain
8a. Selected Security Measures (MARSEC Level 1)	8b. Security Measures Category ☐ If other, explain
9a. Selected Security Measures (MARSEC Level 2)	9b. Security Measures Category ☐ If other, explain
10a. Selected Security Measures (MARSEC Level 3)	10b. Security Measures Category ☐ If other, explain

VULNERABILITY AND SECURITY MEASURES

7a. Vulnerability	7b. Vulnerability Category ☐ If other, explain
8a. Selected Security Measures (MARSEC Level 1)	8b. Security Measures Category ☐ If other, explain
9a. Selected Security Measures (MARSEC Level 2)	9b. Security Measures Category ☐ If other, explain
10a. Selected Security Measures (MARSEC Level 3)	10b. Security Measures Category ☐ If other, explain

U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-6025A (05/03)	**VULNERABILITY AND SECURITY MEASURES ADDENDUM**	OMB APPROVAL NO. 1625-0077

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is 60 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MP), U.S. Coast Guard, 2100 2nd St, SW, Washington D.C. 20593-0001 or Office of Management and Budget, Paperwork Reduction Project (1625-0077), Washington, DC 20503. This form may only be used in addition to form CG-6025, never alone.

NAME OF FACILITY (Use same Name as Block 1., of CG-6025)

7a. Vulnerability	7b. Vulnerability Category ☐ If other, explain
8a. Selected Security Measures (MARSEC Level 1)	8b. Security Measures Category ☐ If other, explain
9a. Selected Security Measures (MARSEC Level 2)	9b. Security Measures Category ☐ If other, explain
10a. Selected Security Measures (MARSEC Level 3)	10b. Security Measures Category ☐ If other, explain
7a. Vulnerability	7b. Vulnerability Category ☐ If other, explain
8a. Selected Security Measures (MARSEC Level 1)	8b. Security Measures Category ☐ If other, explain
9a. Selected Security Measures (MARSEC Level 2)	9b. Security Measures Category ☐ If other, explain
10a. Selected Security Measures (MARSEC Level 3)	10b. Security Measures Category ☐ If other, explain
7a. Vulnerability	7b. Vulnerability Category ☐ If other, explain
8a. Selected Security Measures (MARSEC Level 1)	8b. Security Measures Category ☐ If other, explain
9a. Selected Security Measures (MARSEC Level 2)	9b. Security Measures Category ☐ If other, explain
10a. Selected Security Measures (MARSEC Level 3)	10b. Security Measures Category ☐ If other, explain

INSTRUCTIONS FOR THE CG-6025

FACILITY VULNERABILITY AND SECURITY MEASURES SUMMARY

This form satisfies the requirements for Facility Vulnerability and Security Measures Summary submission found in the Code of Federal Regulations for Facility Security. Form CG-6025A, Vulnerability and Security Measures Addendum, may be used as a continuation of form CG-6025, in order to submit additional vulnerabilities and security measures. If a facility owner or operator submits a Facility Vulnerability and Security Measures Summary pertaining to more than one facility, form CG-6025, shall be submitted to document each additional facility.

BLOCK 1 — Self-Explanatory.

BLOCK 2 — Street Address.

BLOCK 3 — If available, provide latitude to nearest tenth of a minute.

BLOCK 4 — If available, provide longitude to nearest tenth of a minute.

BLOCK 5 — Provide the Captain of the Port Zone from the list below in which your facility resides. Their respective zones are described in 33 CFR Part 3.

BLOCK 6 — Check all applicable operations that are conducted at your facility. If you select other, please explain in the box provided.

BLOCK 7a — Enter a concise description of a vulnerability identified in your facility's assessment. Provide location information if appropriate.

BLOCK 7b — Enter the vulnerability identification code from the KEY to categorically identify the vulnerability you described. More than one category may be used. If you select other, please explain in the box provided.

BLOCK 8a — Enter a concise description of a selected security measure identified in the plan for MARSEC Level 1 that will mitigate the vulnerability you addressed.

BLOCK 8b — Enter the security measures identification code from the KEY to categorically identify the security measure you described. More than one category may be used. If you select other, please explain in the box provided.

BLOCK 9a — Enter a concise description of additional selected security measures, if any, that will be applied during MARSEC Level 2 that will mitigate the vulnerability you addressed.

BLOCK 9b — Enter the security measures identification code from the KEY to categorically identify the security measure you described. More than one category may be used. If you select other, please explain in the box provided.

BLOCK 10a — Enter a concise description of additional selected security measures, if any, that will be applied during MARSEC Level 3 that will mitigate the vulnerability you addressed.

BLOCK 10b — Enter the security measures identification code from the KEY to categorically identify the security measure you described. More than one category may be used. If you select other, please explain in the box provided.

CAPTAIN OF THE PORT ZONE:

Anchorage
Baltimore
Boston
Buffalo
Charleston
Chicago
Cleveland
Corpus Christi
Detroit
Duluth
Guam
Hampton Roads
Honolulu
Houston-Galveston
Huntington
Jacksonville
Juneau
Long Island Sound
Los Angeles/Long Beach
Louisville
Memphis
Miami
Milwaukee
Mobile
Morgan City
New Orleans
New York
Paducah
Philadelphia
Pittsburgh
Port Arthur
Portland, ME
Portland, OR
Providence
Puget Sound
San Diego
San Francisco
San Juan
Sault Ste. Marie
Savannah
St. Louis
Tampa
Toledo
Valdez
Wilmington

KEY

VULNERABILITY CATEGORY:

Physical Security	PHS	That part of security concerned with physical measures designed to safeguard personnel; to prevent unauthorized access to equipment, installations, material, and documents; and to safeguard them against terrorism, espionage, sabotage, damage, and theft.
Structural Integrity	STI	The design and material construction characteristics of piers, facilities, and associated structures.
Transportation Infrastructure	TRI	Infrastructure that may be exploited during an attack, other than utilities.
Utilities	UTI	The essential equipment and services that are vital to the operation of the facility.
Radio & Telecommunications	RAT	That part of security concerned with measures to protect radio and telecommunication equipment, including computer systems and networks.
Personnel Protection Systems	PPS	Equipment, Gear, or Systems designed to protect facility personnel (i.e. weapons, body armor).
Procedural Policies	PRP	Plans, Policies, and Procedures for specific operations.
Coordination and Information Sharing	CIS	The ability to coordinate and receive/share information with local/state/federal agencies and other commercial entities.
Preparedness	PRE	Implementation of Plans, Policies, and Procedures through Training, Drills, and Exercises conducted to improve security awareness, prevention, and response.

SECURITY MEASURES

Access Control	ACC	Lighting	LIT
Barriers	BAR	Patrols	PAT
Cargo Control	CAC	Planning, Policies, & Procedures	PPP
Communications	COM	Redundancy	RED
Coordination	COR	Response	RES
Credentialing	CRE	Stand-off Distance	SOD
Detection	DET	Structural Hardening	STH
Guard Force	GUF	Surveillance	SUR
IT Security	ITS	Training	TRA
Inspections	INS	Vessels/Vehicles	VEV
Intelligence	INT		

[FR Doc. 03–16189 Filed 6–27–03; 8:45 am]
BILLING CODE 4910–15–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 106

[USCG–2003–14759]

RIN 1625–AA68

Outer Continental Shelf Facility Security

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments and notice of meeting.

SUMMARY: This interim rule provides security measures for mobile offshore drilling units (MODUs) not subject to the International Convention for the Safety of Life at Sea, 1974, (SOLAS) and certain fixed and floating facilities on the Outer Continental Shelf (OCS) other than deepwater ports. For the purpose of this part, non-SOLAS MODUs and certain fixed and floating facilities on the OCS are collectively referred to as OCS facilities. This rule requires the owners or operators of OCS facilities to designate security officers, develop security plans based on security assessments, implement security measures specific to the OCS facility's operation and comply with Maritime Security Levels. This interim rule is one of six interim rules in today's **Federal Register** that comprise a new subchapter on the requirements for maritime security mandated by the Maritime Transportation Security Act of 2002. These six interim rules implement national maritime security initiatives concerning General Provisions, Area Maritime Security (ports), Vessels, Facilities, OCS Facilities, and the Automatic Identification System. Where appropriate, they align these domestic maritime security requirements with those of the International Ship and Port Facility Security (ISPS) Code and recent amendments to SOLAS. This interim rule will benefit persons and property by requiring security plans and procedures to prevent, deter, detect, and respond to incidents that threaten the security of OCS facilities. To best understand these rules, first read the one titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792).

DATES: *Effective date.* This interim rule is effective from July 1, 2003 until November 25, 2003.

Comments. Comments and related material must reach the Docket Management Facility on or before July 31, 2003. Comments on collection of information sent to the Office of Management and Budget (OMB) must reach OMB on or before July 31, 2003.

Meeting. A public meeting will be held on July 23, 2003, from 9 a.m. to 5 p.m., in Washington, DC.

ADDRESSES: *Comments.* To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically to the Docket Management System Web site at *http://dms.dot.gov;*

(2) By mail to the Docket Management Facility (USCG–2003–14759), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001;

(3) By fax to the Docket Management Facility at 202–493–2251; or

(4) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

Meeting. A public meeting will be held on July 23, 2003, in Washington, DC, at the Grand Hyatt Washington, DC 1000 H Street, NW., Washington, DC 20001.

Availability. Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may also review the Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Greg Versaw by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: Due to the short timeframe given to implement these National Maritime Transportation Security initiatives, as directed by the Maritime Transportation Security Act (MTSA) of 2002 (MTSA, Pub. L. 107–295, 116 STAT. 2064), and to ensure all comments are in the public venue for these important rulemakings, we are not accepting comments containing protected information for these interim rules. We request you submit comments, as explained in the Request for Comments section below, and discuss your concerns or support in a manner that is not security sensitive. We also request that you not submit proprietary information as part of your comment.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue before November 25, 2003, to replace this interim rule. If you choose to comment on this rule, please include your name and address, identify the specific docket number for this interim rule (USCG–2003–14759), indicate the specific heading of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES.** Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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 interim rule in view of them.

Public Meeting

We will hold a public meeting on July 23, 2003, in Washington, DC at the

Grand Hyatt Hotel, at the address listed under **ADDRESSES.** The meeting will be from 9 a.m. to 5 p.m. to discuss all of the maritime security interim rules, and the Automatic Identification System (AIS) interim rule found in today's **Federal Register**. In addition, you may submit a request for other public meetings to the Docket Management Facility at the address under **ADDRESSES** explaining why another one would be beneficial. If we determine that other meetings would aid this rulemaking, we will hold them at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rulemaking and are making this interim rule effective upon publication. Section 102(d)(1) of the MTSA requires the publication of an interim rule as soon as practicable without regard to the provisions of chapter 5 of title 5, U.S. Code (Administrative Procedure Act). The Coast Guard finds that harmonization of U.S. regulations with maritime security measures adopted by the International Maritime Organization (IMO) in December 2002, and the need to institute measures for the protection of U.S. maritime security as soon as practicable, furnish good cause for this interim rule to take effect immediately under both the Administrative Procedure Act and section 808 of the Congressional Review Act.

Background and Purpose

A summary of the Coast Guard's regulatory initiatives for maritime security can be found under the *Background and Purpose* section in the preamble to the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Discussion of Comments Addressing OCS Facility Issues in the Notice of Meeting

For a discussion of comments on OCS facilities at the public meetings and in the docket, see the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Discussion of Interim Rule

This interim rule regulates the owners and operators of OCS facilities to provide security to these OCS facilities and to other vessels with which an OCS facility interfaces. The interim rule adds new 33 CFR part 106, OCS Facility Security, as part of 33 CFR, Chapter I, subchapter H, Maritime Security. A general description of the process used in developing subchapter H and its component parts appears in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792).

This interim rule applies to Certificated Mobile Offshore Drilling Units (MODUs) that are not subject to International Convention for Safety of Life at Sea, 1974, (SOLAS) and fixed or floating platforms operating on the Outer Continental Shelf that host more than 150 persons for 12 hours or more during each 24-hour period continuously for 30 days or more, or produce more than 100,000 barrels of oil per day, and/or produce more than 200 million cubic feet of natural gas per day. OCS facilities that do not meet these characteristics may still be required to conduct a Facility Security Assessment, develop a Facility Security Plan, and implement certain security measures if the cognizant Coast Guard District Commander makes that determination. That determination is made on a case-by-case basis, based upon unique local conditions, specific intelligence information, or other identifiable and articulable risk factors that confirm such actions are necessary and appropriate to ensure an adequate level of security. This requirement would be issued in a Maritime Security Directive. This interim rule does not apply to deepwater ports.

The MTSA and the International Ship and Port Facility Security (ISPS) Code use different terms to define similar, if not identical, persons or things. These differing terms sometimes match up with the terms used in subchapter H, but sometimes they do not. For a table of the terms used in subchapter H and their related terms in the MTSA and the ISPS Code, see the *Discussion of Interim Rule* section in the preamble for the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), published elsewhere in today's **Federal Register**.

The purpose of this rulemaking is to require certain OCS facilities to perform security assessments, develop security plans, and implement security measures and procedures to reduce the risk of and to mitigate the results of an act that threatens the security of the OCS facility, the crew, or the public. This rulemaking combines international requirements and existing domestic policy, and is published as a part of a new subchapter on maritime security. The MTSA mandates that OCS facilities conduct security assessments and develop security plans, submit these plans within 6 months of publication of this interim rule. It also mandates that each OCS facility shall be in compliance with its approved security plans within 12 months of the publication of this interim rule.

Part 106 consists of four subparts: subpart A (General), subpart B (Security Requirements), subpart C (OCS Facility Security Assessment), and subpart D (OCS Facility Security Plan). The requirements discussed in part 106 are consistent with similar requirements in parts 104 and 105 of this subchapter. These interim rules include requirements discussed below.

Waivers

The waiver section of this interim rule establishes procedures for OCS facility owners or operators who wish to be relieved of complying with specific requirements of the interim rule on the grounds that those requirements are unreasonable or unnecessary.

Equivalents

The equivalents section of this interim rule establishes procedures for requesting an equivalency to the requirements of this interim rule. Equivalencies are intended to allow an OCS facility owner or operator to provide an alternative provision or arrangement that provides the same level of security as a specific requirement contained within this part.

Alternatives

The alternatives section of this interim rule allows OCS facility owners or operators to implement an Alternative Security Program that has been reviewed and accepted by the Commandant (G–MP) to meet the requirements of this part. An Alternative Security Program must be comprehensive and must be demonstrated to meet the intent of each section of this part. Owners or operators are required to implement an Alternative Security Program in its entirety to be deemed in compliance with this part.

Appeals

The appeals section of this interim rule establishes the procedures for OCS facility owners or operators who are aggrieved by, and wish to contest, a Coast Guard decision regarding a matter covered by this interim rule.

Owner or Operator Responsibilities

The owner or operator of a facility is generally responsible for all requirements imposed by this part. The owner or operator must:

- Ensure the performance of all OCS facility security duties;
- Define the security organizational structure for each OCS facility and provide each person exercising security duties or responsibilities within that structure with the support needed to fulfill those obligations;
- Designate, by name or title, a Company Security Officer and a Facility Security Officer for each OCS facility;
- Ensure that a Facility Security Assessment is conducted;
- Ensure the development and submission for approval of a Facility Security Plan.
- Ensure that the OCS facility operates in compliance with the approved Facility Security Plan;
- Ensure that adequate coordination of security issues takes place between the OCS facility and vessels, including the execution of a Declaration of Security;
- Ensure that security communication is readily available;
- Ensure coordination with and implementation of changes in MARSEC Level; and
- Ensure all breaches of security and security incidents are reported.

Company Security Officer (CSO)

This interim rule requires that each OCS facility owner or operator appoint a Company Security Officer, designated in writing, for each OCS facility. The Company Security Officer may be a full-time or collateral position. A Company Security Officer may perform other duties within the owner or operator's organization provided he or she is able to perform the duties and responsibilities required of the Company Security Officer.

The Company Security Officer must have a general knowledge in matters of a range of issues, such as company security administration and organization, relevant laws and regulations, current security threats and patterns, risk assessment methodology, and conducting audits, inspections, and control procedures. The Company Security Officer may delegate his or her duties, but remains responsible for the performance of those duties. The duties of the Company Security Officer include:

- Ensuring that a Facility Security Assessment is carried out;
- Ensuring that a Facility Security Plan is developed, approved, maintained, and implemented;
- Ensuring that the Facility Security Plan is modified when necessary;
- Ensuring that OCS facility security activities are audited and reviewed;
- Ensuring the timely correction of problems identified by audits, reviews, or inspections;
- Ensuring adequate security training; and
- Ensuring communication and cooperation between the OCS facility and vessels.

Facility Security Officer (FSO)

This interim rule requires that the owner or operator of OCS facilities appoint, and designate in writing, a Facility Security Officer. The Facility Security Officer may be a full-time or collateral position. The Facility Security Officer must have a general knowledge in a range of issues such as security administration and organization, relevant laws and regulations, current security threats and patterns, risk assessment methodology, and conducting audits, inspections, and control procedures. The most important duties a Facility Security Officer must perform include implementing a Facility Security Plan, ensuring that adequate training is provided to OCS facility personnel; ensuring that the OCS facility operates in accordance with the plan and in continuous compliance with part 106; and periodically auditing and updating the Facility Security Assessment and Facility Security Plan. The Facility Security Officer may assign security duties to other OCS facility personnel; however, the Facility Security Officer remains responsible for these duties.

Training

Required training for OCS facility personnel must be specified in the Facility Security Plan. The Coast Guard will not require specific security training courses for the Facility Security Officer and OCS facility personnel. While formal training may be appropriate, we are not mandating specifics. OCS facility owners or operators must certify that security personnel are, in fact, properly trained to perform their duties. The types of training required must also be consistent with the training requirements described in this part. The Facility Security Officer is also required to ensure that OCS facility security persons possess necessary training to maintain the overall security of the OCS facility.

Drill and Exercise Requirements

Exercises are required to ensure the adequacy of the Facility Security Plan and are required to be conducted at least once each calendar year, with no more than 18 months between exercises. Drills, which are smaller in scope than exercises, must be conducted at least every 3 months. Exercises may be OCS facility specific, or as part of a cooperative exercise program. Exercises for security may be combined with other required exercises, as appropriate.

Security Systems and Equipment Maintenance

Procedures and/or policies must be developed and implemented to ensure security systems and equipment are tested and operated in accordance with the instructions of the manufacturer and ready for use.

Security Measures

Security measures for specific activities must be scalable in order to provide increasing levels of security at increasing MARSEC levels. An effective security program relies on detailed procedures that clearly indicate the preparation and prevention activities that will occur at each threat level and the organizations, or personnel, who are responsible for carrying out those activities. Security Measures must be developed for the following activities:

- Security measures for access control;
- Security measures for restricted areas;
- Security measures for delivery of stores and industrial supplies; and
- Security measures for monitoring.

Declaration of Security (DoS)

This interim rule requires the execution of a Declaration of Security under certain security conditions. A Declaration of Security provides a means for ensuring that critical security concerns are properly addressed prior to a vessel-to-facility interface. Security must be properly addressed by delineating responsibilities for security arrangements and procedures between a vessel and the OCS facility. This obligation is similar to the existing U.S. practice for vessel-to-facility oil transfer procedures.

Only certain vessels carrying Certain Dangerous Cargoes, in bulk, will complete a Declaration of Security for every evolution regardless of the MARSEC Level. At MARSEC Levels 2 and 3, all vessels and OCS facilities would need to complete the Declaration of Security.

OCS facilities that frequently receive the same vessel may execute a continuing Declaration of Security—a single Declaration of Security for multiple visits.

Each Declaration of Security must state the security activities for which the OCS facility and vessel are responsible during the vessel-to-facility interface.

Declarations of Security must be kept as part of the OCS facility's recordkeeping.

Security Incident Procedures

Each OCS facility must develop security incident procedures for responding to security incidents. The security incident procedures must explain the OCS facility's reaction to an emergency, including the notification and coordination with local, State, and federal authorities. The security incident procedures must also explain actions for securing the OCS facility as well as actions for evacuating passengers and crew.

Facility Security Assessment (FSA)

This interim rule requires all appropriate OCS facilities to complete a Facility Security Assessment, which is an essential part of the process of developing and updating the required Facility Security Plan. The Facility Security Assessment is based in part on an on-scene security survey, which details the overall assessment of the OCS facility including any existing security measures, and includes a written report documenting the vulnerabilities and mitigation strategies of the OCS facility. As discussed in the interim rule ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792), 33 CFR 101.510, lists the various assessment tools that may be used to meet the risk assessment requirements in the parts 104 through 106 of this subchapter. The assessment tools listed are sufficient to enable the development of the Facility Security Plan. This list is also provided to ensure that the Facility Security Assessment is consistent with other modal assessments. We are working with other agencies to develop assessment tools that are sensitive to the diversity of the national Marine Transportation System to ensure consistent levels of security throughout the entire system. The designated Company Security Officer must conduct the on-scene survey by examining and evaluating existing OCS facility protective measures, procedures, and operations. Using the information obtained in the on-scene survey, the Company Security Officer must ensure the completion of the Facility Security Assessment. The Facility Security Assessment identifies and evaluates, in writing, existing security measures; key OCS facility operations; the likelihood of possible threats to key OCS facility operations; and weaknesses, including human factors in the infrastructure, policies, and procedures of the OCS facility.

The Facility Security Assessment includes, among other things, a written summary of how the assessment was conducted, each vulnerability found during the assessment, and countermeasures that could be used to address each vulnerability. The Facility Security Assessment must be reviewed and updated each time the Facility Security Plan is revised and when the Facility Security Plan is submitted for re-approval every five years

Facility Security Plan

This interim rule requires each OCS facility owner or operator to develop an effective security plan that incorporates detailed preparedness, prevention, and response activities for each MARSEC Level, along with the organizations or personnel responsible for carrying out those activities. The requirements discussed in this part are consistent with the requirements covered in parts 104 and 105 of this subchapter.

The Facility Security Plan is a document, written in English that is prepared in response to the Facility Security Assessment and approved by the Coast Guard. A single Facility Security Plan may cover more than one OCS facility to the extent that they share physical characteristics and operations, if authorized and approved by the cognizant District Commander.

In addition to other things, the Facility Security Plan must respond specifically to any recommendations made by the Facility Security Assessment; must describe, for each MARSEC Level, how the OCS facility will apply the security measures required in these regulations; must detail the organizational structure of security for the OCS facility; must detail the responsibilities of all OCS facility personnel with a security duty; must detail the OCS facility's relationships with the Company, vessels that conduct operations with the OCS facility, and relevant authorities with a security responsibility; must provide for regular audit of the FSP and for its amendment in response to experience or changing circumstances; and must establish the procedures needed to assess the continuing effectiveness of security procedures and all security-related equipment and systems, including procedures for identifying and responding to equipment or systems failure or malfunction.

Submission and Approval of Security Plan

The Facility Security Plan, including the Facility Security Assessment report must, be submitted to and reviewed by the cognizant District Commander. Once the cognizant District Commander finds that the plan meets the security requirements in part 106, the submitter will receive confirmation via an approval letter.

If the cognizant District Commander requires more time than is indicated in the requirements of the interim rule to review a submitted Facility Security Plan, the cognizant District Commander may return to the submitter a written acknowledgement stating that the Coast Guard is currently reviewing the Facility Security Plan submitted for approval, and that the OCS facility may continue to operate so long as the OCS facility remains in compliance with the submitted Facility Security Plan.

If the cognizant District Commander finds that the FSP does not meet the security requirements, the plan would be returned to the OCS facility with either an approval letter stating conditions of the approval, or a disapproval letter along with an explanation of why the plan does not meet the part 106 requirements.

Security plans must be reviewed by the Coast Guard every time:

- The Facility Security Assessment is altered;
- Failures are identified during an exercise of the Facility Security Plan; and
- There is a change in ownership or operational control of the OCS facility or there are amendments to the Facility Security Plan.

Regulatory Assessment

This interim rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of the Department of Homeland Security. A Regulatory Assessment is available in the docket as indicated under **ADDRESSES.** A summary of the Assessment follows:

Cost Assessment

For the purposes of good business practice or regulations promulgated by other Federal and State agencies, many companies already have spent a substantial amount of money and resources to upgrade and improve security. The costs shown in this assessment do not include security measures these companies have already taken to enhance security.

The Coast Guard realizes that every company engaged in maritime commerce will not implement this interim rule exactly as presented in the

assessment. Depending on each company's choices, some companies could spend much less than what is estimated herein while others could spend significantly more. In general, the Coast Guard assume that each company will implement this interim rule differently based on the types of OCS facilities it owns or operates and whether it engages in international or domestic trade.

This interim rule will affect about 40 OCS facilities under U.S. jurisdiction, (current and future facilities). These OCS facilities engage in exploring for, developing, or producing oil, natural gas, or mineral resources. To determine the number of OCS facilities, we used data that the Mineral Management Service (MMS) has identified as nationally critical OCS oil and gas infrastructure. These OCS facilities meet or exceed any of the following operational threshold characteristics:

(1) OCS facility hosts more than 150 persons for 12 hours or more in each 24-hour period continuously for 30 days or more;

(2) Production greater than 100,000 (one hundred thousand) barrels of oil per day; or

(3) Production greater than 200,000,000 (two hundred million) cubic feet of natural gas per day.

The estimated cost of complying with the interim rule is Present Value (PV) $37 million (2003–2012, 7 percent discount rate). In the first year of compliance, the cost of security assessments and plans, training, personnel, and paperwork is an estimated $3 million (non-discounted). Following initial implementation, the annual cost of compliance is an estimated $5 million (non-discounted).

Approximately 80 percent of the initial cost of the interim rule is for assigning and establishing Company Security Officers and Facility Security Officers, 12 percent is associated with paperwork creating Facility Security Assessments and Facility Security Plans, and 8 percent of the cost is associated with initial training (not including quarterly drills). Following the first year, approximately 58 percent of the cost is training (including quarterly drills), 42 percent is for Company Security Officers and Facility Security Officers, and less than 1 percent is associated with paperwork. Annual training (including quarterly drills) is the primary cost driver of OCS facility security.

We estimated approximately 3,200 burden hours for paperwork during the first year of compliance (40 hours for each Facility Security Assessment and each Facility Security Plan). We estimated approximately 160 burden hours annually following full implementation of the interim rule to update Facility Security Assessments and Facility Security Plans.

We estimated the cost of this interim rule to be minimal in comparison to vessel and non-OCS facility security implementation. This interim rule includes only personnel, training, and paperwork costs for the affected OCS facility population. We assume the industry is adequately prepared with equipment suited to be used for security purposes (lights, radios, communications), therefore no security equipment installation, upgrades, or maintenance will be required for this interim rule.

Benefit Assessment

This interim rule is one of six interim rules that implement national maritime security initiatives concerning General Provisions, Area Maritime Security (ports), Vessels, Facilities, OCS Facilities, and AIS. The Coast Guard used the National Risk Assessment Tool (N–RAT) to assess benefits that would result from increased security for vessels, facilities, OCS facilities, and ports. The N–RAT considers threat, vulnerability, and consequences for several maritime entities in various security-related scenarios. For a more detailed discussion on the N–RAT and how we employed this tool, refer to *Applicability of National Maritime Security Initiatives* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**. For this benefit assessment, the Coast Guard used a team of experts to calculate a risk score for each entity and scenario before and after the implementation of required security measures. The difference in before and after scores indicates the benefit of the proposed action.

The Coast Guard recognized that the interim rules are a ''family'' of rules that will reinforce and support one another in their implementation. The Coast Guard has ensured, however, that risk reduction that is credited in one rulemaking is not also credited in another. For a more detailed discussion on the benefit assessment and how the Coast Guard addressed the potential to double-count the risk reduced, refer to *Benefit Assessment* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

The Coast Guard determined annual risk points reduced for each of the six interim rules using the N–RAT. The benefits are apportioned among the Vessel, Facility, OCS Facility, AMS, and AIS requirements. As shown in Table 1, the implementation of OCS Facility Security Plans for the affected population reduces 13,288 risk points annually through 2012. The benefits attributable for part 101, General Provisions, were not considered separately since it is an overarching section for all the parts.

TABLE 1.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES

Maritime entity	Annual risk points reduced by rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
Vessels	778,633	3,385	3,385	3,385	1,448
Facilities	2,025	469,686	.....	2,025	.....
OCS Facilities	41	.....	9,903	.....	.....
Port Areas	587	587	.....	129,792	105
Total	781,285	473,659	13,288	135,202	1,553

Once we determined the annual risk points reduced, we discounted these estimates to their present value (7 percent discount rate, 2003–2012) so that they could be compared to the costs. We presented the cost effectiveness, or dollars per risk point reduced, in two ways: First, we compared the first-year cost and first-

year benefit because first-year cost is the highest in our assessment as companies develop security plans and purchase equipment. Second, we compared the 10-year PV cost and the 10-year PV benefit. The results of our assessment are presented in Table 2.

TABLE 2.—FIRST-YEAR AND 10-YEAR PV COST AND BENEFIT OF THE INTERIM RULES

Item	Interim rule				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS [1]
First-Year Cost (millions)	$218	$1,125	$3	$120	$41
First-Year Benefit	781,285	473,659	13,288	135,202	1,553
First-Year Cost Effectiveness ($/Risk Point Reduced)	$279	$2,375	$205	$890	$26,391
10-Year PV Cost (millions)	$1,368	$5,399	$37	$477	$42
10-Year PV Benefit	5,871,540	3,559,655	99,863	1,016,074	11,671
10-Year PV Cost Effectiveness ($/Risk Point Reduced)	$233	$1,517	$368	$469	$3,624

[1] Cost less monetized safety benefit.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard has considered whether this interim 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. This interim rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this interim rule is exempt, the Coast Guard has reviewed it for potential economic impacts on small entities. An Initial Regulatory Flexibility Analysis discussing the impact of this interim rule on small entities is available in the docket where indicated under **ADDRESSES.**

There are approximately 40 total current and future OCS facilities owned by 5 large companies that will be affected by this interim rule. Depending on how the corporate headquarters' operation is classified and whether it is oil or gas specific, these companies are generally classified under the North American Industry Classification System (NAICS) code 211111 or 221210. According to the Small Business Administration guidelines for these industries, a company with less than 500 total corporate employees is considered a small entity. The entities affected by this interim rule do not qualify as small entities because all of them have more than 500 employees.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this interim rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this interim rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Greg Versaw, Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.* Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This interim rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection. This interim rule modifies an existing OMB-approved collection—1625–0077 (formerly 2115–0551). A summary of the revised collection follows.

Title: Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077.

Summary of the Collection of Information: The Coast Guard requires security standards for certain non-SOLAS Certificated MODUs and fixed and floating OCS platforms engaged in the exploration, production and development of oil and mineral resources on the OCS. This interim rule provides a framework to ensure adequate security planning, drilling, and communication procedures by requiring OCS facilities to develop and submit for approval Facility Security Assessments and Facility Security Plans. It also requires the use of a Declaration of Security between OCS facilities and certain vessels.

Need for Information: The primary need for information is to identify the adequate security mitigating measures that will be implemented when needed.

Proposed Use of Information: The information will be used to identify and communicate the security mitigating measures to the Coast Guard and necessary personnel. Declarations of Security will be used to identify and

delineate the security responsibilities between an OCS facility and a vessel.

Description of the Respondents: OCS facilities that produce 100,000 (one hundred thousand) barrels of oil per day or 200,000,000 (two hundred million) cubic feet of natural gas per day or host more than 150 persons for 12 hours or more during a 24-hour period continuously for 30 days or more.

Number of Respondents: 40.

Frequency of Response: Varies.

Initial OCS Facility Security Assessments and OCS Facility Security Plans occur the first year the OCS facility is online with updates during each following year.

Depending on the OCS facility there may be additional requirements and reporting frequencies.

Burden of Response: Development burden for the Facility Security Assessments and Facility Security Plans are estimated to be 80 hours for each OCS facility. Updating the assessments and plans is estimated to be 4 hours for some facilities and 2 hours for others. The Declaration of Security is expected to be 15 minutes each.

Estimate of Total Annual Burden: During the initial year the burden will be 3,200 hours. The average annual reporting burden to industry is 160 hours. For a summary of all revisions to this existing OMB-approved collection, refer to *Collection of Information* in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this interim rule to the Office of Management and Budget (OMB) for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for ''emergency processing'' of our request. We received OMB approval for the collection of information on June 16, 2003. It is valid until December 31, 2003.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. We received OMB approval for the collection of information on June 16, 2003. It is valid until December 31, 2003.

Federalism

An interim 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. This part applies to facilities that are on the OCS, outside the jurisdiction of State waters or submerged lands. Nothing in this part will have a substantial direct effect on State or local governments, nor will a substantial direct cost of compliance be imposed on them. We have analyzed this interim rule under Executive Order 13132 and have determined that it therefore 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. This interim rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the United States (2 U.S.C. 1503(5)).

Taking of Private Property

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

Civil Justice Reform

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this interim 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. Although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

This interim rule has a positive effect on the supply, distribution, and use of energy. The interim rule provides for security assessments, plans, procedures, and standards, which will prove beneficial for the supply, distribution, and use of energy at increased levels of maritime security.

Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it would likely create obstacles to the foreign commerce of the United States. However, because these regulations are being put in place in order to further a legitimate domestic objective, to increase the security of the United States, any obstacles created by the

regulation are not considered unnecessary obstacles.

Environment

We have considered the environmental impact of this interim rule and concluded that under figure 2–1, paragraph (34)(a) and (34)(c), of Commandant Instruction M16475.lD, this interim rule is categorically excluded from further environmental documentation. This interim rule concerns security assessments, plans, training for personnel, and the establishment of security positions that will contribute to a higher level of marine safety and security for OCS facilities extracting oil or gas. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION.**

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this interim rule will be done in conjunction with appropriate State coastal authorities. The Coast Guard will therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

List of Subjects in 33 CFR Part 106

Facilities, Maritime security, Outer Continental Shelf, Reporting and recordkeeping requirements, Security measures.

■ For the reasons discussed in the preamble, the Coast Guard is adding part 106 to subchapter H of chapter I of title 33 of the CFR.

PART 106—OUTER CONTINENTAL SHELF (OCS) FACILITY SECURITY

Subpart A—General

Sec.

106.100 Definitions.
106.105 Applicability.
106.110 Compliance dates.
106.115 Compliance documentation.
106.120 Noncompliance.
106.125 Waivers.
106.130 Equivalents.
106.135 Alternative Security Program.
106.140 Maritime Security (MARSEC) Directive.
106.145 Right to appeal.

Subpart B—Outer Continental Shelf (OCS) Facility Security Requirements

106.200 Owner or operator.
106.205 Company Security Officer (CSO).
106.210 Facility Security Officer (FSO).
106.215 Company or OCS facility personnel with security duties.
106.220 Security training for all other OCS facility personnel.
106.225 Drill and exercise requirements.
106.230 OCS facility recordkeeping requirements.
106.235 Maritime Security (MARSEC) Level coordination and implementation.
106.240 Communications.
106.245 Procedures for interfacing with vessels.
106.250 Declaration of Security (DoS).
106.255 Security systems and equipment maintenance.
106.260 Security measures for access control.
106.265 Security measures for restricted areas.
106.270 Security measures for delivery of stores and industrial supplies.
106.275 Security measures for monitoring.
106.280 Security incident procedures.

Subpart C—Outer Continental Shelf (OCS) Facility Security Assessment (FSA)

106.300 General.
106.305 Facility Security Assessment (FSA) requirements.
106.310 Submission requirements.

Subpart D—Outer Continental Shelf (OCS) Facility Security Plan (FSP)

106.400 General.
106.405 Format and Content of the Facility Security Plan (FSP).
106.410 Submission and approval.
106.415 Amendment and audit.

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.

Subpart A—General

§ 106.100 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

§ 106.105 Applicability.

The requirements in this part apply to owners and operators of any fixed or floating facility, including MODUs not subject to part 104 of this subchapter, operating on the Outer Continental Shelf (OCS) of the United States for the purposes of engaging in the exploration, development, or production of oil, natural gas, or mineral resources that are regulated by 33 CFR subchapter N, that meet the following operating conditions:

(a) Hosts more than 150 persons for 12 hours or more in each 24-hour period continuously for 30 days or more;

(b) Produces greater than 100,000 barrels of oil per day; or

(c) Produces greater than 200 million cubic feet of natural gas per day.

§ 106.110 Compliance dates.

(a) On or before December 29, 2003, each Outer Continental Shelf (OCS) facility owner or operator must submit for each OCS facility a Facility Security Plan (FSP) described in subpart D of this part for review and approval to the cognizant District Commander.

(b) On or before June 25, 2004, each OCS facility owner or operator must be operating in compliance with this part.

(c) OCS facilities built on or after July 1, 2004, must submit for approval an FSP 60 days prior to beginning operations.

§ 106.115 Compliance documentation.

Each OCS facility owner or operator subject to this part must ensure that no later than July 1, 2004, that copies of the following documentation are available at the OCS facility and are made available to the Coast Guard upon request:

(a) The approved Facility Security Plan (FSP) and any approved revisions or amendments thereto, and a letter of approval from the cognizant District Commander dated within the last 5 years;

(b) The FSP submitted for approval and current written acknowledgment from the cognizant District Commander, stating that the Coast Guard is currently reviewing the FSP submitted for approval and that the OCS facility may continue to operate so long as the OCS facility remains in compliance with the submitted FSP; or

(c) For OCS facilities operating under a Coast Guard-approved Alternative Security Program as provided in § 106.135, a copy of the Alternative Security Program the OCS facility is using and a letter signed by the OCS facility owner or operator, stating which Alternative Security Program the OCS facility is using and certifying that the OCS facility is in full compliance with that program.

§ 106.120 Noncompliance.

When an OCS facility is not in compliance with the requirements of this part, the OCS facility owner or operator must notify the cognizant District Commander and request a waiver to continue operations.

§ 106.125 Waivers.

Any OCS facility owner or operator may apply for a waiver of any requirement of this part that the OCS facility owner or operator considers unnecessary in light of the nature or operating conditions of the OCS facility. A request for a waiver must be submitted in writing with justification to the cognizant District Commander. The cognizant District Commander may require the OCS facility owner or operator to provide additional data for use in determining the validity of the requested waiver. The cognizant District Commander may grant a waiver, in writing, with or without conditions only if the waiver will not reduce the overall

security of the OCS facility, its personnel, or visiting vessels.

§ 106.130 Equivalents.

For any measure required by this part, the OCS facility owner or operator may propose an equivalent, as provided in § 101.130 of this subchapter.

§ 106.135 Alternative Security Program.

An OCS facility owner or operator may use an Alternative Security Program approved under § 101.120 of this subchapter if:

(a) The Alternative Security Program is appropriate to that OCS facility;

(b) The OCS facility does not serve vessels on international voyages; and

(c) The Alternative Security Program is implemented in its entirety.

§ 106.140 Maritime Security (MARSEC) Directive.

All OCS facility owners or operators subject to this part must comply with any instructions contained in a MARSEC Directive issued under § 101.405 of this subchapter.

§ 106.145 Right to appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal as described in § 101.420 of this subchapter.

Subpart B—Outer Continental Shelf (OCS) Facility Security Requirements

§ 106.200 Owner or operator.

(a) Each OCS facility owner or operator must ensure that the OCS facility operates in compliance with the requirements of this part.

(b) For each OCS facility, the OCS facility owner or operator must:

(1) Define the security organizational structure for each OCS Facility and provide each person exercising security duties or responsibilities within that structure the support needed to fulfill those obligations;

(2) Designate in writing, by name or title, a Company Security Officer (CSO) and a Facility Security Officer (FSO) for each OCS Facility and identify how those officers can be contacted at any time;

(3) Ensure that a Facility Security Assessment (FSA) is conducted;

(4) Ensure the development and submission for approval of a Facility Security Plan (FSP);

(5) Ensure that the OCS facility operates in compliance with the approved FSP;

(6) Ensure that adequate coordination of security issues takes place between OCS facilities and vessels, including the execution of a Declaration of Security (DoS) as required by this part;

(7) Ensure, within 12 hours of notification of an increase in MARSEC Level, implementation of the additional security measures required by the FSP for the new MARSEC Level; and

(8) Ensure all breaches of security and security incidents are reported in accordance with part 101 of this subchapter.

§ 106.205 Company Security Officer (CSO).

(a) *General.* (1) An OCS facility owner or operator may designate a single CSO for all its OCS facilities to which this part applies, or may designate more than one CSO, in which case the owner or operator must clearly identify the OCS facilities for which each CSO is responsible.

(2) A CSO may perform other duties within the owner's or operator's organization, provided he or she is able to perform the duties and responsibilities required of the CSO.

(3) The CSO may delegate duties required by this part, but remains responsible for the performance of those duties.

(b) *Qualifications.* The CSO must have general knowledge, through training or equivalent job experience, in the following:

(1) Security administration and organization of the OCS facility;

(2) OCS facility and vessel operations and conditions;

(3) OCS facility and vessel security measures including the meaning and consequential requirements of the different MARSEC Levels;

(4) Emergency preparedness and response and contingency planning;

(5) Security equipment and systems and their operational limitations;

(6) Methods of conducting audits, inspection, control, and monitoring; and

(7) Techniques for security training and education, including security measures and procedures.

(c) In addition to the knowledge and training in paragraph (b) of this section, the CSO must have general knowledge, through training or equivalent job experience, in the following, as appropriate:

(1) Relevant international conventions, codes, and recommendations;

(2) Relevant government legislation and regulations;

(3) Responsibilities and functions of other security organizations;

(4) Methodology of Facility Assessment;

(5) Methods of OCS facility security surveys and inspections.

(6) Handling sensitive security information (SSI) and security related communications;

(7) Knowledge of current security threats and patterns;

(8) Recognition and detection of dangerous substances and devices;

(9) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;

(10) Techniques used to circumvent security measures;

(11) Methods of physical screening and non-intrusive inspections; and

(12) Conducting and assessing security drills and exercises.

(d) *Responsibilities.* In addition to any other duties required by this part, for each OCS facility for which the CSO is responsible, the CSO must:

(1) Keep the OCS facility apprised of potential threats or other information relevant to its security;

(2) Ensure that a Facility Security Assessment (FSA) is carried out in compliance with this part;

(3) Ensure that a Facility Security Plan (FSP) is developed, approved, maintained, and implemented in compliance with this part;

(4) Ensure that the FSP is modified when necessary to comply with this part;

(5) Ensure that OCS facility security activities are audited in compliance with this part;

(6) Ensure the timely correction of problems identified by audits or inspections;

(7) Enhance security awareness and vigilance within the owner's or operator's organization;

(8) Ensure relevant personnel receive adequate security training in compliance with this part;

(9) Ensure communication and cooperation between the OCS facility and vessels that interface with it, in compliance with this part;

(10) Ensure consistency between security requirements and safety requirements in compliance with this part;

(11) Ensure that if a common FSP is prepared for more than one similar OCS facility, the FSP reflects any OCS facility specific characteristics; and

(12) Ensure compliance with an Alternative Security Program or equivalents approved under this subchapter, if appropriate.

§ 106.210 OCS Facility Security Officer (FSO).

(a) *General.* (1) The FSO may perform other duties within the owner's or operator's organization, provided he or she is able to perform the duties and responsibilities required of the FSO of each such OCS facility.

(2) The same person may serve as the FSO for more than one OCS facility,

provided the facilities are within a reasonable proximity to each other. If a person serves as the FSO for more than one OCS facility, the name of each OCS facility for which he or she is the FSO must be listed in the Facility Security Plan (FSP) of each OCS facility for which he or she is the FSO.

(3) The FSO may assign security duties to other OCS facility personnel; however, the FSO remains responsible for these duties.

(b) *Qualifications.* The FSO must have general knowledge, through training or equivalent job experience, in the following:

(1) Those items listed in § 106.205(b), and as appropriate § 106.205(c), of this part;

(2) OCS facility layout;

(3) The FSP and related procedures; and

(4) Operation, testing and maintenance of security equipment and systems.

(c) *Responsibilities.* In addition to any other responsibilities specified elsewhere in this part, the FSO must, for each OCS facility for which he or she has been designated:

(1) Regularly inspect the OCS facility to ensure that security measures are maintained in compliance with this part;

(2) Ensure the maintenance of and supervision of the implementation of the FSP, and any amendments to the FSP, in compliance with this part;

(3) Ensure the coordination and handling of stores and industrial supplies in compliance with this part;

(4) Where applicable, propose modifications to the FSP to the Company Security Officer (CSO);

(5) Ensure that any problems identified during audits or inspections are reported to the CSO, and promptly implement any corrective actions;

(6) Ensure security awareness and vigilance on board the OCS facility;

(7) Ensure adequate security training for OCS facility personnel in compliance with this part;

(8) Ensure the reporting and recording of all security incidents in compliance with this part;

(9) Ensure the coordinated implementation of the FSP with the CSO;

(10) Ensure that security equipment is properly operated, tested, calibrated and maintained in compliance with this part;

(11) Ensure consistency between security requirements and the proper treatment of OCS facility personnel affected by those requirements;

(12) Ensure that occurrences that threaten the security of the OCS facility are recorded and reported to the CSO;

(13) Ensure that when changes in the MARSEC Level are attained they are recorded and reported to the CSO, OCS facility owner or operator, and the cognizant District Commander; and

(14) Have prompt access to a copy of the FSA, along with an approved copy of the FSP.

§ 106.215 Company or OCS facility personnel with security duties.

Company or OCS facility personnel responsible for security duties must have knowledge, through training or equivalent job experience, in the following, as appropriate:

(a) Knowledge of current security threats and patterns;

(b) Recognition and detection of dangerous substances and devices;

(c) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;

(d) Recognition of techniques used to circumvent security measures;

(e) Security related communications;

(f) Knowledge of emergency procedures and contingency plans;

(g) Operation of security equipment and systems;

(h) Testing, calibration, and maintenance of security equipment and systems;

(i) Inspection, control, and monitoring techniques;

(j) Methods of physical screenings of persons, personal effects, stores and industrial supplies;

(k) Relevant provisions of the Facility Security Plan (FSP); and

(l) The meaning and the consequential requirements of the different MARSEC Levels.

§ 106.220 Security training for all other OCS facility personnel.

All other OCS facility personnel, including contractors, whether part-time, full-time, temporary, or permanent, must have knowledge, through training or equivalent job experience, of the following:

(a) Relevant provisions of the Facility Security Plan (FSP);

(b) The meaning and the consequential requirements of the different MARSEC Levels including emergency procedures and contingency plans;

(c) Recognition and detection of dangerous substances and devices;

(d) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security; and

(e) Recognition of techniques used to circumvent security measures.

§ 106.225 Drill and exercise requirements.

(a) *General.* Drills and exercises must test the proficiency of OCS facility personnel in assigned security duties at all MARSEC Levels and the effective implementation of the Facility Security Plan (FSP). They must enable the Facility Security Officer (FSO) to identify any related security deficiencies that need to be addressed.

(b) *Drills.* (1) From the date of the FSP approval, the FSO must ensure that at least one security drill is conducted every 3 months. Security drills may be held in conjunction with non-security drills, where appropriate.

(2) Drills must test individual elements of the FSP, including response to security threats and incidents. Drills should take into account the types of operations of the OCS facility, OCS facility personnel changes, the types of vessels calling at the OCS facility, and other relevant circumstances. Examples of drills include unauthorized entry to a restricted area, response to alarms, and notification of appropriate authorities.

(3) If a vessel is conducting operations with the OCS facility on the date the OCS facility has planned to conduct any drills, the OCS facility may include, but cannot require, the vessel or vessel personnel to participate in the OCS facility's scheduled drill.

(c) *Exercises.* (1) From the date of the FSP approval, exercises must be conducted at least once each calendar year, with no more than 18 months between exercises.

(2) Exercises may be:

(i) Full scale or live;

(ii) Tabletop simulation;

(iii) Combined with other appropriate exercises held; or

(iv) A combination of the elements in paragraphs (c)(2)(i) through (iii) of this section.

(3) Exercises may be facility-specific or part of a cooperative exercise program.

(4) Each exercise must test communication and notification procedures, and elements of coordination, resource availability, and response.

(5) Exercises are a full test of the Facility Security Plan and must include substantial and active participation of relevant company and OCS facility personnel, and may include governmental authorities and vessels depending on the scope and the nature of the exercise.

§ 106.230 OCS facility recordkeeping requirements.

(a) Unless otherwise specified in this section, the Facility Security Officer (FSO) must keep records of the activities as set out in paragraph (b) of this section for at least 2 years and make them available to the Coast Guard upon request.

(b) Records required by this section may be kept in electronic format. If kept in an electronic format, they must be protected against unauthorized access, deletion, destruction, amendment, and disclosure. The following records must be kept:

(1) *Training.* For each security training session, the date of each session, duration of session, a description of the training, and a list of attendees;

(2) *Drills and exercises.* For each drill or exercise, the date held, a description of the drill or exercise, a list of participants, and any best practices or lessons learned which may improve the FSP;

(3) *Incidents and breaches of security.* Date and time of occurrence, location within the OCS facility, a description of the incident or breach, the identity of the individual to whom it was reported, and a description of the response;

(4) *Changes in MARSEC Levels.* Date and time of the notification received, and the time of compliance with additional requirements;

(5) *Maintenance, calibration, and testing of security equipment.* For each occurrence of maintenance, calibration, and testing, record the date and time, and the specific security equipment involved;

(6) *Security threats.* Date and time of occurrence, how the threat was communicated, who received or identified the threat, a description of the threat, to whom it was reported, and a description of the response;

(7) *Declaration of Security (DoS).* A copy of each DoS for at least 90 days after the end of its effective period; and

(8) *Annual audit of the Facility Security Plan (FSP).* For each annual audit, a letter certified by the FSO stating the date the audit was conducted.

§ 106.235 Maritime Security (MARSEC) Level coordination and implementation.

(a) The OCS facility owner or operator must ensure the OCS facility operates in compliance with the security requirements in this part for the MARSEC Level in effect for the OCS facility.

(b) When notified of an increase in the MARSEC Level, the OCS facility owner and operator must ensure:

(1) Vessels conducting operations with the OCS facility and vessels scheduled to arrive at the OCS facility within 96 hours of the MARSEC Level change are notified of the new MARSEC Level and the Declaration of Security (DoS), if applicable, is revised as necessary;

(2) The OCS facility complies with the required additional security measures within 12 hours; and

(3) The OCS facility reports compliance or noncompliance to the cognizant District Commander.

(c) For MARSEC Levels 2 and 3, the Facility Security Officer (FSO) must inform all OCS facility personnel about identified threats, emphasize reporting procedures, and stress the need for increased vigilance.

(d) An OCS facility owner or operator whose facility is not in compliance with the requirements of this section must so inform the cognizant District Commander and obtain approval prior to interfacing with another vessel or prior to continuing operations.

§ 106.240 Communications.

(a) The Facility Security Officer (FSO) must have a means to effectively notify OCS facility personnel of changes in security conditions at the OCS facility.

(b) Communication systems and procedures must allow effective and continuous communications between the OCS facility security personnel, vessels interfacing with the OCS facility, with the cognizant District Commander, and national and local authorities with security responsibilities.

(c) Facility communications systems must have a backup means for both internal and external communications.

§ 106.245 Procedures for interfacing with vessels.

The OCS facility owner or operator must ensure that there are measures for interfacing with vessels at all MARSEC Levels.

§ 106.250 Declaration of Security (DoS).

(a) Each OCS facility owner or operator must ensure procedures are established for requesting a DoS and for handling DoS requests from vessels.

(b) At MARSEC Level 1, owners or operators of OCS facilities interfacing with a manned vessel carrying Certain Dangerous Cargoes, in bulk, must:

(1) Prior to the arrival of a vessel to the OCS facility, ensure the Facility Security Officer (FSO) and Master, Vessel Security Officer (VSO), or their designated representatives coordinate security needs and procedures, and agree upon the contents of a DoS for the period of time the vessel is at the OCS facility; and

(2) Upon the arrival of the vessel at the OCS facility, the FSO and Master, VSO, or their designated representatives, must sign the written DoS.

(c) Neither the OCS facility nor the vessel may embark or disembark personnel, or transfer stores or industrial supplies until the DoS has been signed.

(d) At MARSEC Levels 2 and 3, the FSOs of OCS facilities interfacing with manned vessels subject to part 104 must sign and implement DOSs.

(e) At MARSEC Levels 1 and 2, FSOs of OCS facilities that frequently interface with the same vessel may implement a continuing DoS for multiple visits, provided that:

(1) The DoS is valid for a specific MARSEC Level;

(2) The effective period at MARSEC Level 1 does not exceed 90 days; and

(3) The effective period at MARSEC Level 2 does not exceed 30 days.

(f) When the MARSEC Level increases beyond that contained in the DoS, the continuing DoS is void and a new DoS must be executed in accordance with this section.

§ 106.255 Security systems and equipment maintenance.

(a) Security systems and equipment must be in good working order and inspected, tested, calibrated, and maintained according to manufacturers' recommendations.

(b) Security systems must be regularly tested in accordance with the manufacturers' recommendations; noted deficiencies corrected promptly; and the results recorded as required in § 106.230(b)(5) of this part.

(c) The Facility Security Plan (FSP) must include procedures for identifying and responding to security system and equipment failures or malfunctions.

§ 106.260 Security measures for access control.

(a) *General.* The OCS facility owner or operator must ensure the implementation of security measures to:

(1) Deter the unauthorized introduction or dangerous substances and devices, including any device intended to damage or destroy persons, vessels, or the OCS facility;

(2) Secure dangerous substances and devices that are authorized by the OCS facility owner or operator to be on board; and

(3) Control access to the OCS facility.

(b) The OCS facility owner or operator must ensure that:

(1) All locations providing means of access to the OCS facility where access restrictions or prohibitions are applied for each security level to prevent unauthorized access;

(2) The identification of the types of restriction or prohibition to be applied and the means of enforcing them; and

(3) The means of identification required to allow individuals to access

the OCS facility and remain on the OCS facility without challenge are established.

(c) The OCS facility owner or operator must ensure that an identification system is established for checking the identification of OCS facility personnel or other persons seeking access to the OCS facility that:

(1) Provides for identification of authorized and unauthorized persons at any MARSEC Level;

(2) Is coordinated, when practicable, with identification systems used by vessels conducting operations with the OCS facility;

(3) Is updated regularly; and

(4) Allows temporary or continuing access for OCS facility personnel and visitors through the use of a badge or other system to verify their identity.

(d) The OCS facility owner or operator must establish in the approved Facility Security Plan (FSP) the frequency of application of any access controls, particularly if they are to be applied on a random or occasional basis.

(e) *MARSEC Level 1.* The OCS facility owner or operator must ensure the following security measures are implemented at the facility:

(1) Screen persons and personal effects going aboard the OCS facility for dangerous substances and devices at the rate specified in the approved FSP;

(2) Conspicuously post signs that describe security measures currently in effect and clearly stating that:

(i) Boarding an OCS facility is deemed valid consent to screening or inspection; and

(ii) Failure to consent or submit to screening or inspection will result in denial or revocation of authorization to be on board;

(3) Check the identification of any person seeking to board the OCS facility, including OCS facility employees, passengers and crews of vessels interfacing with the OCS facility, vendors, and visitors;

(4) Deny or revoke a person's authorization to be on board if the person is unable or unwilling, upon the request of OCS facility personnel, to establish his or her identity or to account for his or her presence on board. Any such incident must be reported in compliance with this part;

(5) Deter unauthorized access to the OCS facility;

(6) Identify access points that must be secured or attended to deter unauthorized access;

(7) Lock or otherwise prevent access to unattended spaces that adjoin areas to which passengers and visitors have access;

(8) Ensure OCS facility personnel are not required to engage in or be subjected to screening, of the person or of personal effects, by other OCS facility personnel, unless security clearly requires it;

(9) Provide a designated secure area on board, or in liaison with a vessel interfacing with the OCS facility, for conducting inspections and screening of people and their personal effects; and

(10) Respond to the presence of unauthorized persons on board.

(f) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the OCS facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved FSP. These additional security measures may include:

(1) Increasing the frequency and detail of screening of people and personal effects embarking onto the OCS facility as specified for MARSEC Level 2 in the approved FSP;

(2) Assigning additional personnel to patrol deck areas during periods of reduced OCS facility operations to deter unauthorized access;

(3) Limiting the number of access points to the OCS facility by closing and securing some access points; or

(4) Deterring waterside access to the OCS facility, which may include, providing boat patrols.

(g) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, the OCS facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved FSP. The additional security measures may include:

(1) Screening all persons and personal effects for dangerous substances and devices;

(2) Being prepared to cooperate with responders;

(3) Limiting access to the OCS facility to a single, controlled access point;

(4) Granting access to only those responding to the security incident or threat thereof;

(5) Suspending embarkation and/or disembarkation of personnel;

(6) Suspending the onloading of stores or industrial supplies;

(7) Evacuating the OCS facility; or

(8) Preparing for a full or partial search of the OCS facility.

§ 106.265 Security measures for restricted areas.

(a) *General.* The OCS facility owner or operator must ensure the designation of restricted areas in order to:

(1) Prevent or deter unauthorized access;

(2) Protect persons authorized to be in the OCS facility;

(3) Protect the OCS facility;

(4) Protect vessels using and serving the OCS facility;

(5) Protect sensitive security areas within the OCS facility;

(6) Protect security and surveillance equipment and systems; and

(7) Protect stores and industrial supplies from tampering.

(b) *Designation of restricted areas.* The OCS facility owner or operator must ensure restricted areas are designated within the OCS facility. They must also ensure that all restricted areas are clearly marked and indicate that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security. The OCS facility owner or operator may designate the entire OCS facility as a restricted area. Restricted areas must include, as appropriate:

(1) Areas containing sensitive security information;

(2) Areas containing security and surveillance equipment and systems and their controls, and lighting system controls; and

(3) Areas containing critical OCS facility infrastructure equipment, including:

(i) Water supplies;

(ii) Telecommunications;

(iii) Power distribution system;

(iv) Access points for ventilation and air-conditioning systems;

(v) Manufacturing areas and control rooms;

(vi) Areas designated for loading, unloading or storage of stores and industrial supplies; and

(vii) Areas containing hazardous materials.

(c) The OCS facility owner or operator must ensure that the Facility Security Plan (FSP) should include measures for restricted areas to:

(1) Identify which OCS facility personnel are authorized to have access;

(2) Determine which persons other than OCS facility personnel are authorized to have access;

(3) Determine the conditions under which that access may take place;

(4) Define the extent of any restricted area; and

(5) Define the times when access restrictions apply.

(d) *MARSEC Level 1.* At MARSEC Level 1, the OCS facility owner or operator must ensure the implementation of security measures to prevent unauthorized access or activities within the area. These security measures may include:

(1) Restricting access to only authorized personnel;

(2) Securing all access points not actively used and providing physical barriers to impede movement through the remaining access points;

(3) Verifying the identification and authorization of all persons seeking entry;

(4) Using security personnel, automatic intrusion detection devices, surveillance equipment, or surveillance systems to detect unauthorized entry to or movement within restricted areas; or

(5) Designating temporary restricted areas to accommodate OCS facility operations. If temporary restricted areas are designated, the FSP must include security requirements to conduct a security sweep of the designated temporary restricted areas both before and after the area has been established.

(e) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the OCS facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in their approved FSP. These additional security measures may include:

(1) Enhancing the effectiveness of the barriers surrounding restricted areas, for example, by the use of patrols or automatic intrusion detection devices;

(2) Reducing the number of access points to restricted areas, and enhancing the controls applied at the remaining accesses;

(3) Further restricting access to the restricted areas and movements and storage within them;

(4) Using continuously monitored and recorded surveillance equipment;

(5) Increasing the number and frequency of patrols, including the use of waterborne patrols; or

(6) Restricting access to areas adjacent to the restricted areas.

(f) *MARSEC Level 3.* In addition to the security measures required for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the OCS facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in their approved FSP. These additional security measures may include:

(1) Restricting access to additional areas;

(2) Prohibiting access to restricted areas; or

(3) Searching restricted areas as part of a security sweep of all or part of the OCS facility.

§ 106.270 Security measures for delivery of stores and industrial supplies.

(a) *General.* The OCS facility owner or operator must ensure that security measures relating to the delivery of stores or industrial supplies to the OCS facility are implemented to:

(1) Check stores or industrial supplies for package integrity;

(2) Prevent stores or industrial supplies from being accepted without inspection;

(3) Deter tampering; and

(4) Prevent stores and industrial supplies from being accepted unless ordered. For any vessels that routinely use an OCS facility, an OCS facility owner or operator may establish and implement standing arrangements between the OCS facility, its suppliers, and any vessel delivering stores or industrial supplies regarding notification and the timing of deliveries and their documentation.

(b) *MARSEC Level 1.* At MARSEC Level 1, the OCS facility owner or operator must ensure the implementation of measures to:

(1) Inspect stores or industrial supplies before being accepted; and

(2) Check that stores or industrial supplies match the order prior to being brought on board.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the OCS facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved Facility Security Plan (FSP). These additional security measures may include:

(1) Intensifying inspection of the stores or industrial supplies during delivery; or

(2) Checking stores or industrial supplies prior to receiving them on board.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the OCS facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved FSP. These additional security measures may include:

(1) Checking all OCS facility stores or industrial supplies more extensively;

(2) Restricting or suspending delivery of stores or industrial supplies; or

(3) Refusing to accept stores or industrial supplies on board.

§ 106.275 Security measures for monitoring.

(a) *General.* (1) The OCS facility owner or operator must ensure the implementation of security measures in this section and have the capability to continuously monitor, through a combination of lighting, watchkeepers, security guards, deck watches, waterborne patrols and automatic intrusion-detection devices, or surveillance equipment as specified in their approved Facility Security Plan (FSP), the:

(i) OCS facility;

(ii) Restricted areas on board the OCS facility; and

(iii) The area surrounding the OCS facility.

(2) The following must be considered when establishing the appropriate level and location of lighting:

(i) OCS facility personnel should be able to detect activities on and around OCS facility;

(ii) Coverage should facilitate personnel identification at access points; and

(iii) Lighting effects, such as glare, and their impact on safety, navigation, and other security activities.

(b) *MARSEC Level 1.* At MARSEC Level 1, the OCS facility owner or operator must ensure the implementation of security measures, which may be implemented in coordination with a vessel interfacing with the OCS facility, to:

(1) Monitor the OCS facility, particularly OCS facility access points and restricted areas;

(2) Be able to conduct emergency searches of the OCS facility;

(3) Ensure that equipment or system failures or malfunctions are identified and corrected;

(4) Ensure that any automatic intrusion detection device, sets off an audible or visual alarm, or both, at a location that is continually attended or monitored; and

(5) Light deck and OCS facility access points during the period between sunset and sunrise and periods of limited visibility sufficiently to allow visual identification of persons seeking access to the OCS facility.

(c) *MARSEC Level 2.* In addition to the security measures required for MARSEC Level 1 in this section, at MARSEC Level 2, the OCS facility owner or operator must also ensure the implementation of additional security measures, as specified for MARSEC Level 2 in the approved FSP. These additional security measures may include:

(1) Increasing the frequency and detail of security patrols;

(2) Using (if not already in use) or increasing the use of security and surveillance equipment;

(3) Assigning additional personnel as security lookouts; or

(4) Coordinating with boat patrols, when provided.

(d) *MARSEC Level 3.* In addition to the security measures for MARSEC Level 1 and MARSEC Level 2, at MARSEC Level 3, the OCS facility owner or operator must ensure the implementation of additional security measures, as specified for MARSEC Level 3 in the approved FSP. These additional security measures may include:

(1) Cooperating with responders;

(2) Switching on all lights;

(3) Switching on all surveillance equipment capable of recording activities on, or in the vicinity of, the OCS facility;

(4) Maximizing the length of time such surveillance equipment (if not already in use) can continue to record; or

(5) Preparing for underwater inspection of the OCS facility.

§ 106.280 Security incident procedures.

For each MARSEC Level, the OCS facility owner or operator must ensure the Facility Security Officer (FSO) and OCS facility security personnel are able to:

(a) Respond to security threats or breaches of security and maintain critical OCS facility and OCS facility-to-vessel interface operations;

(b) Deny access to the OCS facility, except to those responding to an emergency;

(c) Evacuate the OCS facility in case of security threats or breaches of security; and

(d) Report security incidents as required in § 101.305 of this subchapter;

(e) Brief all OSC facility personnel on possible threats and the need for vigilance, soliciting their assistance in reporting suspicious persons, objects, or activities; and

(f) Secure non-critical operations in order to focus response on critical operations.

Subpart C—Outer Continental Shelf (OCS) Facility Security Assessment (FSA)

§ 106.300 General.

(a) The Facility Security Assessment (FSA) is a written document that is based on the collection of background information, the completion of an on-scene survey and an analysis of that information.

(b) A single FSA may be performed and applied to more than one OCS facility to the extent they share physical characteristics, location, and operations.

(c) Third parties may be used in any aspect of the FSA if they have the appropriate skills and if the Company Security Officer (CSO) reviews and accepts their work.

(d) Those involved in a FSA must be able to draw upon expert assistance in the following areas, as appropriate:

(1) Knowledge of current and anticipated security threats and patterns;

(2) Recognition and detection of dangerous substances and devices;

(3) Recognition of characteristics and behavioral patterns of persons who are likely to threaten security;

(4) Recognition of techniques used to circumvent security measures;

(5) Methods used to cause a security incident;

(6) Effects of dangerous substances and devices on structures and essential services;

(7) OCS facility security requirements;

(8) OCS facility and vessel interface business practices;

(9) Contingency planning, emergency preparedness and response;

(10) Physical security requirements;

(11) Radio and telecommunications systems, including computer systems and networks;

(12) Marine or civil engineering; and

(13) OCS facility and vessel operations.

§ 106.305 Facility Security Assessment (FSA) requirements.

(a) *Background.* The OCS facility owner or operator must ensure that the following background information, if applicable, is provided to the person or persons who will conduct the assessment:

(1) The general layout of the OCS facility, including:

(i) The location of each access point to the OCS facility;

(ii) The number, reliability, and security duties of OCS facility personnel;

(iii) Security doors, barriers, and lighting;

(iv) The location of restricted areas;

(v) The emergency and stand-by equipment available to maintain essential services;

(vi) The essential maintenance equipment and storage areas;

(vii) Location of escape and evacuation routes and assembly stations; and

(viii) Existing security and safety equipment for protection of personnel;

(2) Response procedures for fire or other emergency conditions;

(3) Procedures for monitoring OCS facility and vessel personnel;

(4) Procedures for controlling keys and other access prevention systems;

(5) Response capability for security incidents;

(6) Threat assessments, including the purpose and methodology of the assessment, for the OCS facility's location;

(7) Previous reports on security needs; and

(8) Any other existing security procedures and systems, equipment, communications, and OCS facility personnel.

(b) *On-scene survey.* The OCS facility owner or operator must ensure that an on-scene survey of each OCS facility is conducted. The on-scene survey examines and evaluates existing OCS facility protective measures, procedures, and operations to verify or collect the information required in paragraph (a) of this section.

(c) *Analysis and recommendations.* In conducting the FSA, the OCS owner or operator must ensure that the Company Security Officer (CSO) analyzes the OCS facility background information and the on-scene survey, and considering the requirements of this part, provides recommendations to establish and prioritize the security measures that should be included in the FSP. The analysis must consider:

(1) Each vulnerability found during the on-scene survey, including but not limited to:

(i) Access to the OCS facility;

(ii) Structural integrity of the OCS facility;

(iii) Existing security measures and procedures, including identification systems;

(iv) Existing security measures and procedures relating to essential services;

(v) Measures to protect radio and telecommunication equipment, including computer systems and networks;

(vi) Existing agreements with private security companies;

(vii) Any conflicting policies between safety and security measures and procedures;

(viii) Any conflicting OCS facility operations and security duty assignments;

(ix) Any deficiencies identified during daily operations or training and drills; and

(x) Any deficiencies identified following security incidents or alerts, the report of security concerns, the exercise of control measures, or audits.

(2) Possible security threats, including but not limited to:

(i) Damage to or destruction of the OCS facility or of a vessel adjacent to the OCS facility;

(ii) Smuggling dangerous substances and devices;

(iii) Use of a vessel interfacing with the OCS facility to carry those intending to cause a security incident and their equipment;

(iv) Use of a vessel interfacing with the OCS facility as a weapon or as a means to cause damage or destruction; and

(v) Nuclear, radiological, explosive, biological, and chemical attack;

(3) Threat assessments by Government agencies;

(4) Vulnerabilities, including human factors, in the OCS facility's infrastructure, policies and procedures;

(5) Any particular aspects of the OCS facility, including the vessels that interface with the OCS facility, which make it likely to be the target of an attack;

(6) Likely consequences, in terms of loss of life, damage to property, or economic disruption, of an attack on or at the OCS facility; and

(7) Locations where access restrictions or prohibitions will be applied for each MARSEC Level.

(d) *FSA Report.* (1) The OCS facility owner or operator must ensure that a written FSA report is prepared and included as a part of the FSP. The report must contain:

(i) A summary of how the on-scene survey was conducted;

(ii) A description of existing security measures, including inspection, control and monitoring equipment, personnel identification documents and communication, alarm, lighting, access control, and similar systems;

(iii) A description of each vulnerability found during the on-scene survey;

(iv) A description of security measures that could be used to address each vulnerability.

(v) A list of the key OCS facility operations that are important to protect; and

(vi) A list of identified weaknesses, including human factors, in the infrastructure, policies, and procedures of the OCS facility.

(2) A FSA report must describe the following elements within the OCS facility:

(i) Physical security;

(ii) Structural integrity;

(iii) Personnel protection systems;

(iv) Procedural policies;

(v) Radio and telecommunication systems, including computer systems and networks; and

(vi) Essential services.

§ 106.310 Submission requirements.

(a) A completed FSA report must be submitted with the Facility Security Plan (FSP) required in § 106.405 of this part.

(b) An OCS facility owner or operator may generate and submit a report that contains the FSA for more than one OCS facility subject to this part, to the extent that they share similarities in physical characteristics, location and operations.

Subpart D—Outer Continental Shelf (OCS) Facility Security Plan (FSP)

§ 106.400 General.

(a) The OCS facility owner or operator must ensure the FSO develops and implements a Facility Security Plan (FSP) for each OCS facility for which he or she is designated as FSO. The FSP:

(1) Must identify the FSO by name or position and provide 24-hour contact information;

(2) Must be written in English;

(3) Must address each vulnerability identified in the Facility Security Assessment (FSA);

(4) Must describe security measures for each MARSEC Level; and

(5) May cover more than one OCS facility to the extent that they share similarities in physical characteristics and operations, if authorized and approved by the cognizant District Commander.

(b) The FSP must be submitted for approval to the cognizant District Commander in a written or electronic format in a manner prescribed by the cognizant District Commander.

(c) The FSP is sensitive security information and must be protected in accordance with 49 CFR part 1520.

(d) If the FSP is kept in an electronic format, procedures must be in place to prevent its unauthorized deletion, destruction, or amendment.

§ 106.405 Format and content of the Facility Security Plan (FSP).

(a) An OCS facility owner or operator must ensure that the FSP consists of the individual sections listed in this paragraph (a). If the FSP does not follow the order as it appears in the list, the OCS facility owner or operator must ensure that the FSP contains an index identifying the location of each of the following sections:

(1) Security organization of the OC facility;

(2) Personnel training;

(3) Drills and exercises;

(4) Records and documentation;

(5) Response to change in MARSEC Level;

(6) Procedures for interfacing with vessels;

(7) Declaration of Security (DoS);

(8) Communications;

(9) Security systems and equipment maintenance;

(10) Security measures for access control;

(11) Security measures for restricted areas;

(12) Security measures for delivery of stores and industrial supplies;

(13) Security measures for monitoring;

(14) Security incident procedures;

(15) Audits and FSP amendments; and

(16) Facility Security Assessment (FSA) report.

(b) The OCS facility owner or operator must ensure that the FSP describes in detail how each of the requirements of subpart B of this part will be met.

§ 106.410 Submission and approval.

(a) On or before December 29, 2003, each OCS facility owner or operator must either:

(1) Submit one copy of the Facility Security Plan (FSP) for review and approval to the cognizant District Commander and a letter certifying that the FSP meets the applicable requirements of this part; or

(2) If implementing a Coast Guard approved Alternative Security Program, meet the requirements in § 101.120(b) of this subchapter.

(b) OCS facilities built on or after July 1, 2004, must comply with the requirements in paragraph (a) of this section 60 days prior to beginning operations.

(c) The cognizant District Commander will examine each submission for compliance with this part, and return to the submitter either:

(1) A letter of approval, stating acceptance of the FSP and specifying any conditions of approval;

(2) An acknowledgement letter stating that the Coast Guard is currently reviewing the FSP submitted for approval, and that the OCS facility may continue to operate so long as the OCS facility remains in compliance with the submitted FSP; or

(3) A disapproval letter specifying the reasons for disapproval and the submitted FSP.

(d) An FSP may be submitted and approved to cover more than one OCS facility where they share similarities in physical characteristics, location, and operations.

(e) Each OCS facility owner or operator that submits one FSP to cover two or more OCS facilities of similar design, location, and operation must address OCS facility-specific information that includes the physical and operational characteristics of each OCS facility.

(f) An FSP that is approved by the cognizant District Commander is valid for 5 years from the date of its approval. The cognizant District Commander will issue an approval letter, as indicated in § 106.115 of this part.

§ 106.415 Amendment and audit.

(a) *Amendments.* (1) Amendments to a Facility Security Plan (FSP) that are approved by the cognizant District Commander may be initiated by:

(i) The OCS facility owner or operator; or

(ii) The cognizant District Commander, upon a determination that an amendment is needed to maintain the OCS facility's security. The cognizant District Commander will give the OCS facility owner or operator written notice and request that the OCS facility owner or operator propose amendments addressing any matters specified in the notice. The OCS facility owner or operator will have at least 60 days to submit its proposed amendments. Until amendments are approved, the OCS facility owner or operator shall ensure temporary security measures are implemented to the satisfaction of the cognizant District Commander.

(2) Proposed amendments must be sent to the cognizant District Commander. If initiated by the OCS facility owner or operator, the proposed amendment must be submitted at least 30 days before the amendment is to take effect unless the cognizant District Commander allows a shorter period. The cognizant District Commander will approve or disapprove the proposed amendment in accordance with § 106.410 of this subpart.

(3) If the owner or operator has changed, the Facility Security Officer (FSO) must amend the Facility Security Plan (FSP) to include the name and contact information of the new OCS facility owner(s) or operator(s) and submit the affected portion of the FSP for review and approval in accordance with § 106.410 of this subpart.

(b) *Audits.* (1) The FSO must ensure an audit of the FSP is performed annually, beginning no later than one year from the initial date of approval and attach a letter to the FSP certifying that the FSP meets the applicable requirements of this part.

(2) If there is a change in ownership or operations of the OCS facility, or if there have been modifications to the OCS facility, the FSP must be audited including but not limited to physical structure, emergency response procedures, security measures, or operations.

(3) Auditing the FSP as a result of modifications to the OCS facility may be limited to those sections of the FSP affected by the OCS facility modifications.

(4) Unless impracticable due to the size and nature of the company or the OCS facility, personnel conducting internal audits of the security measures specified in the FSP or evaluating its implementation must:

(i) Have knowledge of methods of conducting audits and inspections, and control and monitoring techniques;

(ii) Not have regularly assigned security duties; and

(iii) Be independent of any security measures being audited.

(5) If the results of an audit require an amendment of either the Facility Security Assessment (FSA) or FSP, the FSO must submit, in accordance with § 106.410 of this subpart, the amendments to the cognizant District Commander for review and approval no later than 30 days after completion of the audit and a letter certifying that the amended FSP meets the applicable requirements of this part.

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, Coast Guard Commandant.

[FR Doc. 03–16190 Filed 6–27–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 26, 161, 164, and 165

[USCG–2003–14757]

RIN 1625–AA67

Automatic Identification System; Vessel Carriage Requirement

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments and notice of meeting.

SUMMARY: The Coast Guard is amending port and waterway regulations to reflect vessel carriage requirements and establish technical and performance standards for an Automatic Identification System (AIS). This interim rule will implement the AIS carriage requirements of the Maritime Transportation Security Act of 2002 (MTSA) and the International Maritime Organization requirements adopted under International Convention for the Safety of Life at Sea, 1974, (SOLAS) as amended. The changes will require AIS on all vessels subject to SOLAS, Vessel Traffic Service Users and certain other commercial vessels. The rule will facilitate vessel-to-vessel and vessel-to-shore communications; it will enhance good order and predictability on the waterways, promote safe navigation; and contribute to maritime domain awareness to protect the security of our nation's ports and waterways.

This rule is one of six interim rules in today's **Federal Register** addressing the requirements for maritime security mandated by the MTSA. These six interim rules implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf facilities, and the Automatic Identification System. They align domestic maritime security requirements with those of the International Ship and Port Facility Security Code and recent amendments to SOLAS. This rule will benefit persons and property by requiring that certain vessels carry AIS to increase maritime domain awareness and help detect, and respond to unlawful acts that threaten vessels. To best understand these interim rules, first read the one titled ''Implementation of National Maritime Security Initiatives.'' (*See* USCG–2003–14792).

In view of the benefit-cost ratio presented herein, the Coast Guard will share with Congress any significant information provided by the public that addresses the reasonableness of implementing the statute.

DATES: *Effective date.* This interim rule is effective July 1, 2003. The Coast Guard intends to finalize this rule by November 25, 2003. Material incorporated by reference was approved by the Director of the Federal Register as of July 1, 2003.

Comments. Comments and related material must reach the Docket Management Facility on or before July 31, 2003.

Meeting. A public meeting will be held on July 23, 2003 from 9 a.m. to 5 p.m., in Washington, DC.

ADDRESSES: *Comments.* To ensure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically to the Docket Management System at *http://dms.dot.gov.*

(2) By mail to the Docket Management Facility (USCG–2003–14757) at the U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Meeting. A public meeting will be held on July 23, 2003 in Washington, DC at the Grand Hyatt Washington, DC, 1000 H Street, NW., Washington, DC 20001.

Availability. You may inspect the material incorporated by reference at room 1409, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 8:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–6277. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, contact Mr. Jorge Arroyo, Office of Vessel Traffic Management (G–MWV), Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION: Due to the short timeframe given to implement these National Maritime Transportation Security initiatives, as directed by the Maritime Transportation Security Act (MTSA) of 2002 (MTSA, Pub. L. 107–295, 116 STAT. 2064), and to ensure all comments are in the public venue for these important rulemakings, we are not accepting comments containing protected information for these interim rules. We request you submit comments, as explained in the Request for Comments section below, and discuss your concerns or support in a manner that is not security sensitive. We also request that you not submit proprietary information as part of your comment.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Electronic forms of all comments received into any of our dockets can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor unit, etc.) and is open to the public without restriction. You may also review the Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov/.*

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue before November 25, 2003, to replace this interim rule. If you choose to comment on this rulemaking, please include your name and address, identify the specific docket number for this interim rule (USCG–2003–14757), indicate the specific heading of this document to which each comment applies, and give the reason for each comment. If you have comments on another rule please submit those comments in a separate letter to the docket for that rulemaking. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period, and we may amend this rule and the final rule that replaces it in view of them.

Note, matters pertaining to AIS licensing, equipment certification, and frequencies are subject to Federal Communications Commission regulations and are not addressed in this rule, see FCC Public Notice DA 02–1362 in the docket for further information.

Public Meeting

We will hold a public meeting on July 23, 2003, in Washington, DC at the Grand Hyatt Hotel, at the address listed under **ADDRESSES.** The meeting will be from 9 a.m. to 5 p.m. to discuss this Automatic Identification System (AIS) rulemaking in addition to the other five maritime security rulemakings, found elsewhere in today's **Federal Register**. In addition, you may submit a request for other public meetings to the Docket Management Facility at the address under **ADDRESSES** explaining why another one would be beneficial. If we determine that other meetings would aid this rulemaking, we will hold them at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking for this rulemaking and are making this interim rule effective upon publication. Section 102(d)(1) of the Maritime Transportation Security Act of 2002 (MTSA, Public Law 107–295, 116 Stat. 2064) requires the publication of an interim rule as soon as practicable without regard to the provisions of chapter 5 of title 5, U.S. Code (Administrative Procedure Act). The Coast Guard finds that harmonization of U.S. regulations with maritime security measures adopted by the International Maritime Organization (IMO) in December 2002, and the need to institute measures for the protection of U.S. maritime security as soon as practicable, furnish good cause for this interim rule to take effect immediately under both the Administrative Procedure Act and section 808 of the Congressional Review Act.

Recently Enacted Legislation

The provisions set forth in this rulemaking and the associated regulatory assessment take into account: (1) The recently enacted MTSA, which requires an AIS on most commercial vessels on all navigable waters, and (2) the International Convention for the Safety of Life at Sea, 1974, (SOLAS) amendments from the December 2002 International Maritime Organization (IMO) Diplomatic Conference. This rule will amend AIS standards to those adopted by the IMO and SOLAS and defined in the International Telecommunication Union Radiocommunication Bureau (ITU–R) Recommendation ITU–R M.1371–1 and International Electrotechnical Commission (IEC) IEC 61993–2.

The recent SOLAS AIS amendments accelerate the implementation schedule, as discussed below under ''Background and Purpose-Acceleration of SOLAS AIS Implementation.'' Copies of the MTSA and the SOLAS AIS amendments are available in the docket as indicated under **ADDRESSES.**

Public Meetings for Rulemakings Related to Vessel Traffic Service

The Coast Guard held a public meeting on October 28, 1998, in New Orleans, Louisiana. The meeting was announced in a notice published in the **Federal Register** on September 18, 1998 (63 FR 49939). This meeting gave the Coast Guard the opportunity to discuss the Vessel Traffic Service (VTS) concept on the Lower Mississippi River and the envisioned use of automatic

identification system technology in the VTS. At this 1998 meeting, we reported the preliminary results of tests conducted on the Lower Mississippi River using precursor AIS. The proposed VTS on the Lower Mississippi River is not discussed in this rulemaking because it is the subject of a separate rulemaking titled ''Vessel Traffic Service Lower Mississippi River'' (65 FR 24616, April 26, 2000; docket [USCG–1998–4399]). We copied those comments regarding the AIS that were submitted to the VTS Lower Mississippi River docket and have placed those copies in the docket for this interim rule. However, most of those comments are not addressed herein either because they are no longer applicable or because they address a previous version of AIS and not the version required by this interim rule. We encourage all those who commented previously on this rulemaking to comment on the new provisions set forth in this rule. We will address those comments along with all other comments submitted in direct response to this interim rule in the final rule.

Over the past few years, the Coast Guard has made AIS presentations at various public forums including Federal advisory committee meetings (Towing Safety Advisory Committee, National Offshore Safety Advisory Committee, Houston-Galveston Navigation Safety Advisory Committee and Navigation Safety Advisory Council). Moreover, the AIS-based Ports and Waterways Safety System project being installed at the VTS Lower Mississippi River is regularly discussed at the Lower Mississippi River Waterway Safety Advisory Committee meetings.

The Houston-Galveston Navigation Safety Advisory Committee and Lower Mississippi River Waterway Safety Advisory Committee are Federally chartered advisory committees charged with making recommendations to the Coast Guard on matters relating to the safe and efficient transit of vessels on their respective waterways. These open forums have afforded the public, particularly those in the Gulf of Mexico and Mississippi River areas, the opportunity to comment on both VTS Lower Mississippi River and AIS issues. The public's input will be taken into account throughout this rulemaking. Elsewhere in today's **Federal Register**, we have published a notice requesting comments on AIS carriage for vessels outside VTS and Vessel Movement Reporting System (VMRS) areas that are not on an international voyage (*See* USCG–2003–14878).

Background and Purpose

Section 5004 of the Oil Pollution Act of 1990, as codified in 33 U.S.C. 2734, directed the Coast Guard to operate additional equipment, as necessary, to provide surveillance of tank vessels transiting Prince William Sound, Alaska. We have done so since 1994 through a system then known as ''Automated Dependent Surveillance.'' Advances have taken place with this technology, now referred to as the AIS. Section 102 of the MTSA mandates that AIS be installed and operating on most commercial and passenger vessels on all navigable waters of the United States.

The version of AIS required by this interim rule automatically broadcasts vessel and voyage-related information that is received by other AIS-equipped ships and shore stations. In the ship-to-shore mode, AIS enhances maritime domain awareness and allows for the efficient exchange of vessel traffic information that previously was only available via voice communications with a VTS. In ship-to-ship mode, an AIS provides essential information to other vessels, such as name, position, course, and speed that is not otherwise readily available onboard vessels. In either mode, an AIS enhances the mariner's situational awareness, makes possible the accurate exchange of navigational information, mitigates collision through reliable passing arrangements, and facilitates vessel traffic management, while simultaneously reducing very high frequency voice transmissions.

AISs have achieved acceptance through worldwide adoption of performance and technical standards developed to ensure commonality, universality, and inter-operability. These recommendations have now been established and adopted as standards by the following diverse international bodies: the IMO, the International Telecommunications Union (ITU), and the International Electrotechnical Commission (IEC). Further, installation of such equipment is required on vessels subject to SOLAS, as amended.

Applicability and Compliance Dates

This interim rule requires the following vessels to install and operate AIS:

- Vessels on international voyages subject to SOLAS under the schedule set forth in SOLAS chapter V, regulation 19.2.4;
- Vessels of 65 feet or more in length, not subject to SOLAS or transiting a VTS area, in commercial service on international voyages by December 31, 2004; and
- The following VTS or VMRS users:
- Self-propelled vessels of 65 feet or more in length, in commercial service;
- Towing vessel 26 feet or more in length and more than 600 horsepower;
- Vessels of 100 gross tons or more carrying one or more passengers for hire; and
- Passenger vessels certificated to carry 50 or more passengers for hire.

The VTS and VMRS users must comply by: December 31, 2003, within VTS St. Marys River; by July 1, 2004, within VTS Berwick Bay, VMRS Los Angeles/Long Beach, VTS Lower Mississippi River, VTS Port Arthur and VTS Prince William Sound; by December 31, 2004, within VTS Houston-Galveston, VTS New York, VTS Puget Sound, and VTS San Francisco.

Note that the compliance dates set forth in SOLAS differ from those enacted in the MTSA. In this rule, where the dates differ, we have sided with the internationally agreed upon dates of SOLAS, particularly regarding tankers built before July 1, 2002, where the compliance date is the first survey of these vessels for safety equipment on or after July 1, 2003, which could extend compliance to July 1, 2004 (one year later than the MTSA).

However, we accelerated AIS implementation from the revised SOLAS schedule to meet other international obligations. As of March 25, 2003, the Saint Lawrence Seaway Development Corporation, under an international agreement with the St. Lawrence Seaway Management Corporation of Canada, has required AIS on vessels transiting St. Lawrence Seaway waters from St. Lambert, Quebec to Long Point, in mid-Lake Erie. (68 FR 9549, February 28, 2003). We anticipate VTS St. Marys River will be AIS-capable by December 31, 2003, and at that time we will require all VTS users, including SOLAS vessels, transiting the Seaway and the VTS to continue AIS operation through their entire transit.

This acceleration also follows our plan to require AIS use in areas where we will have an infrastructure to fully monitor and manage the AIS data link and ensure accurate maritime domain awareness. That is why we have, initially, decided to implement AIS predominately in VTS and VMRS areas as they become equipped with AIS capability.

The MTSA calls for AIS use in all navigable waters, but allows this requirement to be waived if the Secretary finds that an AIS is not needed for safe navigation on specified navigable waters. The Coast Guard

intends to carry out this mandate completely; however, at this early stage of AIS deployment, the Coast Guard deems it important to fully require an AIS, particularly in congested waters, where it has the capability to manage the AIS VHF data link. An AIS permits shore-side base stations to perform various functions to manage the AIS data link, such as changing operating frequencies, power outputs, and reporting rates, should the network require it. This action may be necessary to ensure safe navigation. The Coast Guard anticipates having these facilities in most of our major waterways; however, until then it intends to proceed on a rollout plan by waterway. In a notice and request for comments published elsewhere in today's **Federal Register**, the Coast Guard is seeking comments on expansion of AIS implementation to vessels not on international voyages outside VTS and VMRS areas.

Acceleration of SOLAS AIS Implementation

The December 2000 Amendments to SOLAS provided for a phased-in AIS carriage schedule under chapter V, regulation 19.2.4 that started July 1, 2002, and extended to July 1, 2008, depending on ship type and tonnage. After September 11, 2001, and in an effort to improve safety, security and maritime domain awareness worldwide, the United States initiated action through IMO to accelerate this implementation schedule.

In November 2001, the IMO Assembly, on the recommendation of the United States and numerous other nations, adopted resolution A.924(22) with the goals of enhancing maritime security. This resolution instructed the Organization to develop appropriate measures to improve maritime security. Based upon a recommendation by the United States, the Assembly also agreed to convene an international conference in December 2002 to formally adopt whatever measures were developed.

In February 2002, an Intersessional Working Group of the IMO Maritime Safety Committee (MSC) met and recommended that the AIS carriage timeline be accelerated, in addition to several other security-related initiatives, which are discussed in separate interim rules published elsewhere in today's **Federal Register**.

In May 2002, the Maritime Safety Committee met and accepted amendments to SOLAS related to the accelerated AIS implementation (including several phase-in options), for consideration at a December 2002 Diplomatic Conference. The Diplomatic Conference convened in December 2002 and adopted the phased-in AIS carriage schedule as described in Table 1 below.

TABLE 1.—SOLAS AIS SCHEDULE (CHAPTER V, REGULATION 19.2.4) FOR VESSELS ON INTERNATIONAL VOYAGES

Constructed	Type of vessel	Implementation date
On or after July 1, 2002	All	July 1, 2002.
Before July 1, 2002	Passenger ships (carrying 12 or more passengers)	July 1, 2003.
	Tankers	First survey for safety equipment on or after July 1, 2003
	Ships, other than passenger ships and tankers, greater than or equal to 50,000 gross tonnage.	July 1, 2004.
	Ships, other than passenger ships and tankers, greater than or equal to 300, but less than 50,000 gross tonnage.	First safety equipment survey after July 1, 2004, or by December 31, 2004, whichever occurs earlier.

This interim rule implements this revised SOLAS schedule, as it concerns vessels on international voyage, and through a separate notice titled ''Automatic Identification System; Expansion of Carriage Requirements for U.S. Waters'' [USCG–2003–14878], published elsewhere in today's **Federal Register**, we seek comments regarding vessels solely engaged in domestic voyages and not transiting a VMRS.

The Coast Guard received some unfavorable comments regarding AIS carriage (*see* USCG–1998–4399–3 at http://dms.dot.gov) in the VTS Lower Mississippi River rulemaking docket (USCG–1998–4399). There were also AIS comments made during the Public Meetings on Maritime Security, discussed in the preamble to the interim rule titled ''Implementation of National Maritime Security Initiatives,'' published elsewhere in today's **Federal Register**. The Coast Guard is of the strong opinion that an AIS should be installed not only on SOLAS vessels, but also on most commercial vessels as soon as possible, particularly in vessel traffic monitoring areas, such as VTS and VMRS areas. Thus, the Coast Guard is requiring AIS carriage for non-SOLAS vessels while navigating these areas. There is a general discussion of comments on AIS carriage included in the preamble for the interim rule titled ''Implementation of National Maritime Security Initiatives,'' published elsewhere in today's **Federal Register**.

Automatic Identification System (AIS)

The AIS integrates a number of technologies to enhance the safe and efficient navigation of ships, protection of the environment, operation of VTS, and maritime domain awareness. AIS does this by providing ship-to-ship information for collision avoidance, and ship-to-shore information about a ship and its cargo for traffic management and increased maritime awareness. Included in these technologies are Global Navigation Satellite System, frequency agile digital very high frequency transceivers, self-organizing communications protocols, and an architecture that allows input from and output to other shipborne navigational equipment (for example, input from rate of turn indicator and heading sensor; output to radar or electronic chart display systems). Data from these technologies can be tailored to the mariner's needs and desires. The automated operation of the AIS and the reduction of voice interactions should enhance mariners' ability to navigate. More than 5 million voice reports a year will be eliminated in existing VTS areas alone by using AIS.

The AIS transmits and receives vessel information in near real-time from other ships and rebroadcasts from shore stations, such as—

(1) *Static Information*—Vessel call sign, name, IMO identification number, dimensions, type;

(2) *Voyage-Related Information*—Draft, cargo type, destination, and estimated time of arrival; and

(3) *Dynamic Information*—Time in Universal Time Coordinated, latitude/longitude position, course over ground, speed over ground, heading, rate of turn, navigational status.

The AIS provides mariners with accurate navigation information. In addition, shore stations will be able to

relay pertinent navigational data from other sources, such as the National Oceanic and Atmospheric Administration's Physical Oceanographic Real Time System. An AIS enhances the mariner's situational awareness, permits more effective and reliable passing arrangements as intended by the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201–1208) and the Inland Navigational Rules (33 U.S.C. 2001–2038), and provides the Coast Guard with a comprehensive and informative traffic image not possible with radar or video surveillance.

AIS Testing

AIS tests and trials have been conducted by national maritime safety administrations in a number of locations around the world including Germany, Sweden, Finland, Singapore, South Korea, British Columbia, the Panama Canal, the St. Lawrence Seaway, the Baltic Sea, South Africa, and the Rhine River. The Coast Guard has conducted numerous tests and simulations to identify various technical and operational issues, such as the shoreside communications infrastructure required to support full duplex operations; unit reliability, development of operational procedures appropriate to an AIS-based VTS; and identification of user requirements for graphical display functionality.

In August 1998, the Coast Guard leased 50 early-generation (Digital Selective Calling (DSC) ITU–R M.825–3 version) transponders that were evaluated aboard a variety of platforms. The principal purpose of this testing was to evaluate the performance of a DSC-based system and identify any operational and technical problems that would have to be resolved before implementation of the latest AIS technology (ITU–R M. 1371–1 version).

Existing AIS-Like Systems

This is not the first experience with AISs for the Coast Guard and the maritime industry. Since July 1994, tankers operating in the Prince William Sound area have carried DSC transponders that report to the VTS.

The DSC transponder system used in Prince William Sound is a one-way system of limited capability, flexibility and potential. The VTS at Prince William Sound remains dependent on radar and very high frequency voice radio communications and is, in essence, a traditional VTS augmented by a DSC system. Despite the reduced capability of this type of transponder, it has proven valuable and has demonstrated its potential as the foremost VTS surveillance sensor.

The key difference between the DSC-based identification system used in VTS Prince William Sound and the one required by this interim rule is that the former only provides ship-to-shore (VTS) transmissions of position data. The AIS technology being required ensures two-way communication, radio frequency agility, greater capacity, non-proprietary display interface standards, and a host of display possibilities, including Electronic Chart Display Information System, Automatic Radar Plotting Aid (ARPA), non-ARPA radar, Electronic Chart System, Integrated Navigation System, or other proprietary graphical user interfaces. See Technical Comparison Table 2.

TABLE 2.—TECHNICAL COMPARISON OF ITU–R M.825 VERSUS ITU–R M.1371–1 BASED AIS.

System characteristics	Digital selective calling radio transponder	Broadcast automatic identification system
Technical Standards	ITU–R M.825–3/IEC 61993–1	ITU–R M.1371–1/IEC 61993–2.
Intended Use	Ship-to-shore	Ship-to-ship; ship-to-shore; shore-to-ship.
Message Schedule	Shore synchronized	Coordinated and Synchronized. Self-organizing timeslot procedure.
Frequency Agility	Full very high frequency spectrum availability	DSC reception locked to very high frequency Ch. 70 only. DSC broadcasts and TDMA reception and broadcasts have full very high frequency spectrum availability.
Radio Channels	One DSC (Simplex or Duplex)	One DSC (Simplex). Two TDMA (Simplex or Duplex).
Permissive Channel Usage (loading)	No more than 15% on Channel 70. Up to 100% on dedicated channel.	No more than 7.5% on Channel 70. In excess of 100% on two dedicated channels (AIS1/AIS2).
Effective Data Rate	600 bits/second	Reception: 19,200 bits/second. Broadcast: 9,600 bits/second.
System Capacity	9 polled messages/minute Ch. 70–60 polled message/minute not Ch 70–240 with special shore station control and synchronization using duplex repeater.	TDMA: 4500 messages/minute plus. DSC: 4 to 9 polled messages/minute.

The Need for Standardization

As evidenced by the number of navigation systems currently in use, there is great interest in using technology to improve navigational safety and maritime domain awareness. However, to correctly add beneficial traffic information while also meeting the user demand to avoid a multiplicity of incompatible systems, standardization was needed. Without standardization, an AIS could not operate effectively or achieve its maximum potential.

Failure to adopt international standards would create a proliferation of disparate units, with no guarantee that devices offered by various manufacturers would be interoperable. In fact, the DSC installation discussed in the *Existing AIS-Like Systems* section was based on a standard communication protocol. However, it relies upon proprietary software for data management and display. The Coast Guard has been a leader in the drafting or adoption of technical standards through its participation at IMO, ITU, and other international working groups, including groups within the IEC; our goal being the universal inter-operability of AIS.

The key differences between previous technologies and AISs are that the latter allows for reliable Self-Organizing Time-Division Multiple Access, two-way communication, radio frequency agility, greater capacity, and a host of display possibilities. For these reasons, implementing international standards for AIS was a high priority for the Coast Guard.

Ports and Waterways Safety System

Recognizing the need to take advantage of this technology, the Coast Guard has embarked in a major capitalization effort to upgrade all existing and future VTSs with AIS capability.

The Ports and Waterways Safety System is an effort to establish a national transportation system that collects, processes, and disseminates information on the marine operating environment and maritime vessel traffic in major U.S. ports and waterways.

The VTS mission is to monitor and assess vessel movements, exchange information regarding vessel movements with other vessels and shore-based personnel, and provide advisories to vessel Masters. The AIS coverage capability and precision compared to other surveillance technology (*i.e.*, radar and closed circuit television (CCTV)), makes it the sensor of choice for all future VTS operations.

A major goal of the Ports and Waterways Safety System is to apply AIS and other technologies that enable information gathering and dissemination in ways that do not create an additional operational burden for the mariner. An AIS-based VTS will augment the mariner's navigational capability through automatic and effortless broadcast of vessel traffic data, navigational advisories, and safety alerts. Through AIS-based VTS technology and this rulemaking, we can maximize the benefits of our vessel traffic management mission, provide the same or more services, and enhance navigation.

Each VTS has a Vessel Traffic Center (VTC) that will receive vessel movement data from an AIS in addition to radar and CCTV, if so equipped. An AIS-based VTS reduces the need for voice interactions, expands situational awareness, and augments the VTS role to assist mariners in the performance of their duties, thus mitigating the risk of collisions.

We have started this upgrade process and expect to complete it for the following VTS ports by 2005: Berwick Bay, LA; Houston-Galveston, TX; Port Arthur, TX; New Orleans, LA; New York, NY; San Francisco, CA; Prince William Sound, AK; Puget Sound, WA; and St. Marys River, MI. As these VTSs become AIS-capable, per the schedule established today in 33 CFR 164.46, the Coast Guard will eliminate VTS Users voice position reports and rely upon AIS broadcasting. We will require all VTS Users within a VTS to use an AIS.

Given the reduced infrastructure needs of an AIS and associated cost and operational efficiency, the Coast Guard intends to expand AIS surveillance to other VMRS areas, such as the approaches to Los Angeles and Long Beach Harbors, which is jointly operated by the Coast Guard and the Southern California Marine Exchange (under the California Code of Regulations, 14 CCR 852.20 through 852.30). Other VMRS areas are envisioned and would be the subject of future rulemakings. However, the Coast Guard in this interim rule defines VMRS centers, areas, and users to distinguish them from VTS centers, areas, and users. This will allow the Coast Guard to have monitoring capabilities in areas that may not warrant the full interactivity of a VTS (that is, informational, navigation assistance and active traffic organization services), but that do warrant the Captain of the Port's (COTP's) vigilance and greater situational awareness. It would also provide the COTPs a more effective means to carry out their duties and communicate with vessels reporting from within a vessel monitoring system area, and thus enhance their maritime domain awareness.

Involvement of the Maritime Community

We have long recognized that use of AIS on the nation's navigable waters is a valuable asset to all mariners. In the past, many in the maritime community have noted that to have a successful VTS, the Coast Guard must strive to meet the needs of the users while imposing minimal burden, especially in terms of voice communications.

In 1997, the Coast Guard benefited from a national dialog conducted by the Marine Board of the National Academies and its Committee on Maritime Advanced Information Systems and *ad hoc* VTS committee formed under the auspices of the Lower Mississippi River Waterway Safety Advisory Committee. This *ad hoc* committee, which was made up of representatives from the maritime community, port community, government, and the public, was asked to define user requirements for VTS that would accomplish the joint overall goals of safety and efficiency. The result of this effort was a conceptual baseline VTS plan. (See USCG–1998–4399–3 at *http://dms.dot.gov).* One key finding of that plan was the need to implement AIS technology, and to incorporate AIS as a key component of future VTS implementation. The Coast Guard views AIS implementation not only as a key component of VTS, but also as a valuable awareness tool that should be made available and required in all the nation's seas and waterways.

The Coast Guard also recognizes that wider implementation of a surveillance capability is imperative to maritime domain awareness and homeland security. Thus, it is moving forward with AIS capability as a component of our nation's marine distress system network-Rescue 21. Therefore, the Coast Guard wishes to avail itself of this opportunity to seek comments, via the Notice accompanying this interim rule published elsewhere in today's **Federal Register**, regarding expanding AIS carriage requirements beyond those vessels and areas required in this interim rule.

Discussion of Interim Rule

This interim rule amends Vessel Bridge-to-Bridge Radiotelephone Regulations in 33 CFR part 26, Vessel Traffic Management regulations in part 161, Navigation Safety Regulations, in part 164, and the Prince William Sound, Alaska regulated navigation area regulations in 33 CFR 165.1704. We are making the following changes to existing regulations.

Amendments to Part 26

We are deleting Table 26.03(f) and directing the reader to newly designated Table 161.12(c) for the same information.

Amendments to Part 161

We are adding two definitions in § 161.2—''navigable waters'' and ''Vessel Movement Center''; and revising definitions for ''Vessel Movement Reporting System''; and ''Vessel Movement Reporting System User'' to distinguish them from ''Vessel Traffic Service'', ''Vessel Traffic Centers'', and ''Vessel Traffic Service Users''. Vessels within a VTS receive a host of services (*e.g.*, weather and navigation advisories, reports of aids to navigation outages, and projected traffic encounters) that will not necessarily be available from a VMRS whose primary mission is to enhance Coast Guard maritime domain awareness and homeland security.

We are amending the Table 161.12(b), and redesignating it as Table 161.12(c) to reflect existing VTS and VMRS areas and their call signs, designated frequencies, and clarifying Notes.

We are revising § 161.21 to establish a mandatory reporting and broadcast requirement via AIS in denoted VMRS areas. The current regulation has a voice reporting exemption for those vessels carrying AISSE in VTS areas capable of receiving such reports, such as VTS Prince William Sound (where the AISSE

requirement will remain in effect until July 1, 2004).

We are deleting the Sailing Plan Deviation Report in § 161.21, but we are still requiring this information in the general reporting requirements in § 161.18.

Throughout subpart B, we are adding ''VMRS'' after ''VTS'' to show that the provisions of this subpart can apply to either a VTS and or a VMRS.

Amendments to Part 164

We are adding a paragraph to § 164.01 to note that § 164.46 applies to some vessels less than 1600 gross tons, and we are revising § 164.01(c) to add § 164.46 to the list of sections not applicable to U.S. public vessels.

We are revising § 164.02 to reflect that the AIS requirement in part 164 applies to vessels subject to SOLAS Chapter V, Regulation 19.2.4.

We are amending § 164.03, the ''Incorporation by Reference'' section, by adding the IMO's MSC AIS performance standard (MSC.74(69)), the ITU AIS technical standard (ITU–R M.1371–1), the IMO AIS shipborne installation guidelines (SN/Circ.277), the SOLAS 2000 Amendments and SOLAS 2002 Amendments (Conference resolution 1), and the IEC AIS certification and testing standard (IEC 61993–2).

We are renaming § 164.43 as ''Automatic Identification System Shipborne Equipment—Prince William Sound,'' and embedded an expiration date. We are adding new § 164.46 ''Automatic Identification System (AIS)'' to address applicability, operation, placement, and use of AIS units. In addition, we are extending AIS applicability to all vessels subject to SOLAS; to commercial vessels 65 feet or more in length not subject to SOLAS on an international voyage; and to other commercial vessels required to participate in a VTS or VMRS (these vessels are all passenger vessels certificated to have 50 or more passengers on board and every vessel subject to Vessel Bridge-to-Bridge Radiotelephone Act).

Given the similarities between vessel bridge-to-bridge radiotelephone and AIS, the usage, maintenance, and language requirements in 33 CFR 26.04(a) and (c), 26.05, 26.06, and 26.07 for Vessel Bridge-to-Bridge Radiotelephones, will also apply to AIS. We are also clarifying that proper maintenance includes accurate and timely, data entry and transmission. For vessels over 1600 gross tons, we are requiring the AIS Pilot Plug be readily available, placed at the conning position, and near an AC power outlet.

The use of portable AIS units on vessels will be permissible only if such use does not interfere with other installed navigation and communications systems, and, such that only one unit be in operation at a time.

Amendments to Part 165

In § 165.1704, we are amending the AISSE carriage requirement for tankers in Prince William Sound, so that it expires, and thus reverts to the AIS requirement, on July 1, 2004.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 164.03 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in § 164.03.

Regulatory Assessment

This interim rule is not economically significant, however, it is a ''significant regulatory action'' under Executive Order 12866, and has been reviewed by the Office of Management and Budget (OMB). It is also significant under the regulatory policies and procedures of the Department of Homeland Security due to significant public interest. A more detailed Regulatory Assessment is available in the docket as indicated under **ADDRESSES.** A summary of the assessment follows.

Cost Assessment

The interim rule is requiring the carriage of an AIS on all U.S. flag SOLAS vessels, certain domestic vessels in VTS areas, and foreign flag vessels less than 300 gross tonnage that make ports of call in the United States. We estimate that 438 U.S. flag SOLAS vessels, 4,121 non-SOLAS domestic vessels, and 70 non-SOLAS foreign vessels will be affected by the interim rule. These include the following:

(1) Vessels subject to SOLAS;

(2) All commercial, self-powered vessels of 65 feet or more in length in VTS areas, including fishing vessels;

(3) Most passenger vessels in VTS areas;

(4) All dredges and floating plants engaged in operations in VTS areas;

(5) Certain commercial towing vessels of 26 feet or more in length in VTS areas; and

(6) Non-SOLAS foreign flag vessels that are 65 feet or more in length that make port calls at any U.S. port.

The estimated cost of complying with the interim rule for domestic vessels is Present Value (PV) $66 million (2003–2012, 7 percent discount rate). Approximately PV $5 million of this total is attributable to U.S. flag SOLAS vessels. The remaining PV $61 million is attributable to domestic vessels (non-SOLAS) that are affected. In the first year of compliance, the cost of purchasing and installing equipment and training personnel is an estimated $40 million (non-discounted, $2 million for the U.S. flag SOLAS fleet, $38 million for the domestic fleet). Following initial implementation, the annual cost of compliance is an estimated $1 million (non-discounted, $0.1 million for the U.S. flag SOLAS fleet, $0.9 million for the domestic fleet).

Non-SOLAS foreign flag vessel costs attributed to this rule are not included in the domestic cost calculations but are still considered here. The PV cost for these vessels to comply with the interim rule is estimated at $1 million over the 10-year period. The initial cost of purchasing and installing equipment and training personnel is an estimated $0.6 million (non-discounted). Following the initial implementation, the annual cost of compliance is less than $0.1 million (non-discounted).

Safety Benefits

The Coast Guard expects both quantifiable and non-quantifiable benefits as a result of the interim rule. Quantified benefits include avoided property damage, injuries, fatalities, and pollution events as a result of having an AIS. Other benefits include better situational awareness, better information, and better communications. The interim rule will also enhance Coast Guard missions such as marine safety and security, aids to navigation, and maritime mobility.

In order to quantify the benefits of AIS implementation, the Coast Guard reviewed thousands of Marine Casualty Incident Reports (MCIRs) from 1993–1999 that involved the vessel populations affected by this interim rule. These incidents were used to develop a historical rate of marine casualties in VTS areas to determine the effectiveness of AIS as a mitigating factor. The estimated safety benefit of the interim rule is PV $25 million (2003–2012, 7 percent discount rate). Approximately PV $13 million is attributable to U.S. flag SOLAS vessels. The remaining PV $12 million is attributable to domestic vessels (non-SOLAS). The estimated average annual benefit is $5 million (non-discounted).

The costs of this interim rule are presented for a 10-year period. The Regulatory Assessment available in the public docket for this rulemaking

extends the assessment to a 15-year period.

Security Benefits

This interim rule is one of six interim rules that implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf (OCS) facilities, and AIS. The Coast Guard used the National Risk Assessment Tool (N–RAT) to assess benefits that would result from increased security for vessels, facilities, OCS facilities, and ports. The N–RAT considers threat, vulnerability, and consequences for a host of maritime entities in various security-related scenarios. For a more detailed discussion on the N–RAT and how we employed this tool, refer to ''Applicability of National Maritime Security Initiatives'' in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**. For this benefit assessment, the Coast Guard used a team of experts to calculate a risk score for each entity and scenario before and after the implementation of required security measures. The difference in before and after scores indicates the benefit of the proposed action.

We recognize that the interim rules are a ''family'' of rules that will reinforce and support one another in their implementation. We have ensured, however, that risk reduction that is credited in one rulemaking is not also credited in another. For a more detailed discussion on the benefit assessment and how we addressed the potential to double-count the risk reduced, refer to ''Benefit Assessment'' in the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

We determined annual risk points reduced for each of the six interim rules using the N–RAT. The benefits are apportioned among the Vessel, Facility, OCS Facility, AMS, and AIS requirements. As shown in Table 3, the implementation of AIS for the affected population reduces 1,553 risk points annually through 2012. The benefits attributable for part 101—*General Provisions*—were not considered separately since it is an overarching section for all the parts.

TABLE 3.—ANNUAL RISK POINTS REDUCED BY THE INTERIM RULES

Maritime entity	Annual Risk Points Reduced by Rulemaking				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS
Vessels	778,633	3,385	3,385	3,385	1,448
Facilities	2,025	469,686	.....	2,025	.....
OCS Facilities	41	.....	9,903	.....	.....
Port Areas	587	587	.....	129,792	105
Total	781,285	473,659	13,288	135,202	1,553

Once we determined the annual risk points reduced, we discounted these estimates to their present value (7 percent discount rate, 2003–2012) so that they could be compared to the costs. We presented cost effectiveness, or dollars per risk point reduced, in two ways: first, we compared the first-year cost and first-year benefit because first-year cost is the highest in our assessment as companies develop security plans and purchase equipment. Second, we compared the 10-year PV cost and the 10-year PV benefit. The results of our assessment are presented in Table 4.

TABLE 4. FIRST-YEAR AND 10-YEAR PV COST AND BENEFIT OF THE INTERIM RULES.

Item	Interim Rule				
	Vessel security plans	Facility security plans	OCS facility security plans	AMS plans	AIS[1]
First-year cost (millions)	$218	$1,125	$3	$120	$41
First-year benefit	781,285	473,659	13,288	135,202	1,553
First-year cost effectiveness ($/risk point reduced)	279	2,375	205	890	26,391
10-year PV cost (millions)	1,368	5,399	37	477	42
10-year PV benefit	5,871,540	3,559,655	99,863	1,016,074	11,671
10-year PV cost effectiveness ($/risk point reduced)	233	1,517	368	469	3,624

[1] Cost less monetized safety benefit.

Although we have quantified these security benefits relative to AIS, the N–RAT is limited in its ability to measure benefits attributable to intelligence or information gathering. These limitations are discussed in the *Assessment Limitations* section in the preamble of the interim rule titled ''Implementation of National Maritime Security Initiatives'' (USCG–2003–14792) published elsewhere in today's **Federal Register**.

Congress mandated an AIS carriage requirement on domestic (non-SOLAS) vessels in 46 U.S.C. 70114, and provided an explicit phase-in schedule for AIS in section 102(e) of the MTSA. Strictly upon consideration of monetized safety benefits, as measured through decreased collisions and the resulting decrease in injuries, mortalities, and pollution incidents, the cost of AIS installation for the domestic fleet far outweighs the benefit over a 15-year period (0.26 benefit-cost ratio). This ratio results from the high costs of purchasing and installing the unit (an estimated $9,330 per vessel), and the types of marine casualties that AIS is expected to mitigate, where damage is not usually severe nor is there significant loss of life. In view of the

benefit-cost ratio presented above, the Coast Guard will share with the Congress any significant information provided by the public that addresses the reasonableness of implementing the statute.

Because there is not yet a mass market for AIS, the cost per unit in the next few years, when the domestic fleet is required to purchase AIS, is likely to be higher than when it is replaced (around 2012). Because the AIS market is in its infancy, we cannot estimate how much the unit cost will decrease over the next decade. If many manufactures enter the market, costs are likely to drop through competition. Because manufacturers have a potential world market and a significant U.S. market, many may attempt to capture a segment. Conversely, if only a few players emerge worldwide, AIS costs could remain high. Because manufacturers must engage in a rigorous approval process and cannot be assured that they will recoup research and development costs through unit sales, there is the potential that only a few dominant players will emerge in the AIS market. Because we cannot determine the trend of the AIS market, and we did not want to understate the cost for AIS, we assumed that the cost for units in 2012 would again be approximately $9,000 per unit. It is possible that an AIS unit will not be this expensive to replace.

In terms of security, we estimated that we will not experience a significant benefit from a decrease in risk, as measured in risk points reduced in the N–RAT, as a result of AIS installation. There are two primary reasons for this estimate. First, the N–RAT was an internal Coast Guard tool that was modified to estimate the national benefits attributable to the suite of security rulemakings mandated by the MTSA. The tool was not designed to measure the security benefits of AIS specifically. The N–RAT does not, therefore, robustly capture the risk mitigation potential of AIS. Secondly, the Coast Guard strongly believes that AIS is critical to maritime domain awareness. We are unable to quantify or monetize the benefits of this Coast Guard mission or the individual contribution of AIS.

While the monetized benefit of the rule does not exceed its cost, the Coast Guard believes that AIS has the potential to mitigate a Transportation Security Incident (TSI) as described in the MTSA. The Coast Guard recognizes that a single sensor, such as AIS, will not likely prevent a TSI alone—but if AIS can have a mitigating effect on just a single TSI, the security benefit could be significant. The Coast Guard must consider AIS in its suite of security rulemakings and has developed an interim rulemaking that considers the mandates of the MTSA in light of the high initial costs of purchasing the unit, by requiring AIS in VTS areas only for the domestic fleet. We are concentrating our efforts in VTS areas, since this is where we can begin accruing the most benefit—for industry, the public, and the Coast Guard—in the shortest period of time. Through our interim rulemaking, we are attempting to maximize the return to our investment as quickly as practical.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impacts on small entities. An Initial Regulatory Flexibility Analysis discussing the impact of this rule on small entities is available in the docket where indicated under **ADDRESSES.**

Number and Types of Small Entities Affected

U.S. Flag SOLAS Vessels

Of the affected population, we estimate that 205 U.S. flag SOLAS vessels, of 438 total, are owned by 122 small businesses. Approximately 40 large companies own the remaining 233 U.S. flag SOLAS vessels.

We estimate the cost of an AIS per vessel in the first year will be $9,330. Of this, $7,000 is for the AIS unit, $2,000 is for installation, and $330 is for mariner training. We estimate that following installation, each AIS will require $250 in annual maintenance to replace such items as the antenna, keyboard, and display screen. The entire unit will be replaced after 8 years.

We found that annual maintenance costs will have a less-than-1-percent impact on annual revenue for all small businesses with U.S. flag SOLAS vessels. First-year impacts to small businesses, therefore, are the focus of this assessment. To estimate the revenue impact on small businesses in the first year, the cost per vessel for an AIS, $9,330, is multiplied by the number of vessels owned by each company, then divided by the average annual revenue for each company, as reported in the online databases noted above. Of the 122 small businesses that own U.S. flag SOLAS vessels, we found revenue for 59 of them (48 percent). If we could not find revenue data for a business, we assumed the business was small. For the remaining 63 small entities without revenue data, we expanded the revenue impacts from the known 59 companies. For example, if 73 percent of 59 small entities (43 entities) had a 0–3 percent impact on their average annual revenues, then 73 percent of 63 small entities (47 entities) had a 0–3 percent impact, for a total of 90 small entities with an annual revenue impact of 0–3 percent. Table 5 presents the revenue impact for the 59 entities with known average annual revenue and the expanded results for the 63 entities without revenue information.

TABLE 5.—EFFECT OF FIRST-YEAR COST ON AVERAGE ANNUAL REVENUE FOR SMALL ENTITIES OWNING U.S. FLAG SOLAS VESSELS

Percent of annual revenue that is first-year AIS cost	Number of entities with known annual revenues	Percent of entities with known annual revenues	Expanded number of entities with unknown annual revenues	Total small entities per impact category
0–3%	43	73	47	90
> 3–5%	5	8	5	10
> 5–10%	4	7	4	8
> 10–20%	6	10	6	12
> 20–30%	0	0	0	0

TABLE 5.—EFFECT OF FIRST-YEAR COST ON AVERAGE ANNUAL REVENUE FOR SMALL ENTITIES OWNING U.S. FLAG SOLAS VESSELS—Continued

Percent of annual revenue that is first-year AIS cost	Number of entities with known annual revenues	Percent of entities with known annual revenues	Expanded number of entities with unknown annual revenues	Total small entities per impact category
> 30%	1	2	1	2
Total	59	100	63	122

Detail may not calculate to total due to independent rounding.

Number and Types of Small Entities Affected: Non-SOLAS Fleet in VTS Areas

We estimate that there are 1,491 small businesses that will be affected by the interim rule that own non-SOLAS vessels that transit VTS areas. These 1,491 companies own 2,360 vessels, representing 57 percent of the 4,121 non-SOLAS vessels affected by the rule. An estimated 1,456 vessels (35 percent) are owned by 150 large businesses, and 55 vessels (1 percent) are owned by State and local governments. We have 248 vessels that transit VTS areas (7 percent of the non-SOLAS fleet) that have no company associated with the vessel whatsoever, due to missing company information in our data. We cannot be certain if these vessels belong to small, large, or government entities and do not apportion these 248 vessels to one type of entity or another.

As with the U.S. flag SOLAS fleet, annual cost following installation of an AIS will have little impact on annual revenues—a less-than-1-percent impact on annual revenue for most small businesses. The first-year cost of the interim rule, therefore, will again have the greatest impact on average annual revenue. To estimate the revenue impact on small businesses in the first year, the cost per vessel for an AIS, $9,330, multiplied by the number of vessels owned by each company, then divided by the average annual revenue for each company. Of the 1,491 small businesses that own non-SOLAS vessels in VTS areas, we found revenue for 453 of them (30 percent). As with the assessment for the U.S. flag SOLAS fleet, if we could not find revenue data for a business, we assumed the business was small. For the remaining 1,038 small entities without revenue data, we expanded the revenue impacts for the known 453 companies. The results of the assessment for the non-SOLAS fleet in VTS areas are presented in Table 6.

TABLE 6.—EFFECT OF FIRST-YEAR COST ON AVERAGE ANNUAL REVENUE FOR SMALL ENTITIES OWNING NON-SOLAS VESSELS IN VTS AREAS

Percent of annual revenue that is first-year AIS cost	Number of entities with known annual revenues	Percent of entities with known annual revenues	Expanded number of entities with unknown annual revenues	Total small entities per impact category
0–3%	334	74	767	1,101
> 3–5%	47	10	104	151
> 5–10%	34	8	83	117
> 10–20%	20	4	42	62
> 20–30%	11	2	21	32
> 30%	7	2	21	28
Total	453	100	1,038	1,491

Detail may not calculate to total due to independent rounding.

As shown, the interim rule will have a less-than-3-percent impact on 74 percent of small businesses in the first year it is in effect. Approximately 92 percent have a less-than-10-percent impact. We conclude, therefore, that the interim rule may have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Jorge Arroyo (G–MWV) by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or electronic mail *msregs@comdt.uscg.mil.*

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

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The reports required by this rule are considered to be operational communications, transitory in nature, and, therefore, do not constitute the collection of information under the Paperwork Reduction Act.

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. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. In addition, under the authority of Title I of the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232 (specifically 33 U.S.C. 1223) and the MTSA our regulation will preempt any State action on the subject of automatic identification system carriage requirements. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) Our AIS carriage requirement rule falls into the category of equipping of vessels. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

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 regulatory actions not specifically required by law. 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 million or more in any one year. We do discuss the effects of this interim rule elsewhere in this preamble. However, this interim rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the United States (2 U.S.C. 1503(5)).

Taking of Private Property

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

Civil Justice Reform

This interim 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

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

Indian Tribal Governments

This interim 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. We invite your comments, however, on how this interim rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this interim 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 an economically significant regulatory action and is therefore not likely to have a significant adverse effect on the supply, distribution, or use of energy even though it is a ''significant regulatory action'' under Executive Order 12866. 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.

Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it is not likely to create substantial obstacles to the foreign commerce of the United States because we are implementing an international standards (IEC/IMO/ITU). In addition, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the safety of vessels and the security of the United States, any obstacles created by the regulation are not considered unnecessary obstacles.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraphs (34)(d), (34)(e), and (34)(i) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This interim rule concerns vessel equipment requirements that will contribute to higher levels of marine safety and maritime domain awareness for U.S. ports and waterways. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION.**

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this rule will be done in conjunction with appropriate State coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

List of Subjects

33 CFR Part 26

Communications equipment, Marine safety, Radiotelephone, Vessels.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 26, 161, 164, and 165 as follows:

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

■ 1. Revise the authority for part 26 to read as follows:

Authority: 14 U.S.C. 2; 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170; Rule 1, International Regulations for the Prevention of Collisions at Sea.

■ 2. In § 26.03, in paragraph (f), remove the words, ''Table 26.03(f) (VTS Call Signs, Designated Frequencies, and Monitoring Areas).'', and add, in their place, the words ''Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).'', and delete Table 26.03(f).

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 3. Revise the authority for part 161 to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

■ 4. In § 161.2—

■ a. Revise the definitions for ''Vessel Movement Reporting System (VMRS)'', ''Vessel Movement Reporting System (VMRS) User''; and

■ b. Add the definitions for ''navigable waters'' and ''Vessel Movement Center (VMC)'', in alphabetical order, to read as follows:

§ 161.2 Definitions.

* * * * *

Navigable waters means all navigable waters of the United States including the territorial sea of the United States, extending to 12 nautical miles from United States baselines, as described in Presidential Proclamation No. 5928 of December 27, 1988.

* * * * *

Vessel Movement Center (VMC) means the shore-based facility that operates the vessel tracking system for a Vessel Movement Reporting System (VMRS) area or sector within such an area. The VMC does not necessarily have the capability or qualified personnel to interact with marine traffic, nor does it necessarily respond to traffic situations developing in the area, as does a Vessel Traffic Service (VTS).

Vessel Movement Reporting System (VMRS) means a mandatory reporting system used to monitor and track vessel movements. This is accomplished by a vessel providing information under established procedures as set forth in this part in the areas defined in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).

Vessel Movement Reporting System (VMRS) User means a vessel, or an owner, operator, charterer, Master, or person directing the movement of a vessel that is required to participate in a VMRS.

* * * * *

■ 5. In § 161.12—

■ a. Redesignate paragraphs (a)(1), (b), Table 161.12(b), and paragraph (c) as (b), (c), Table 161.12(c), and (d), respectively;

■ b. Revise newly designated paragraph (c) and newly designated Table 161.12(c) to read as follows:

§ 161.12 Vessel operating requirements.

* * * * *

(c) When not exchanging voice communications, a VTS User must maintain a listening watch as required by § 26.04(e) of this chapter on the VTS frequency designated in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas). In addition, the VTS User must respond promptly when hailed and communicate in the English language.

Note to § 161.12(c): As stated in 47 CFR 80.148(b), a very high frequency watch on Channel 16 (156.800 MHz) is not required on vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Service (VTS) system when the watch is maintained on both the vessel bridge-to-bridge frequency and a designated VTS frequency.

TABLE 161.12(C).—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Center MMSI [1] *Call Sign*	Designated frequency (Channel designation)—purpose [2]	Monitoring area [3 4]
Berwick Bay 003669950—		
Berwick Traffic	156.550 MHz (Ch. 11)	The waters south of 29°45′ N., west of 91°10′ W., north of 29°37′ N., and east of 91°18′ W.
Houston-Galveston—003669954		The navigable waters north of 29° N., west of 94°20′ W., south of 29°49′ N., and east of 95°20′ W.
Houston Traffic	156.550 MHz (Ch. 11) 156.250 Mhz (Ch. 5A) —For Sailing Plans only	The navigable waters north of a line extending due west from the southern most end of Exxon Dock #1 (20°43.37′ N., 95°01.27′ W.).
Houston Traffic	156.600 MHz (Ch. 12) 156.250 Mhz (Ch. 5A) —For Sailing Plans only	The navigable waters south of a line extending due west from the southern most end of Exxon Dock #1 (29°43.37′ N., 95°01.27′ W.)
Los Angeles/Long Beach: MMSI/To be determined		
San Pedro Traffic	156.700 MHz (Ch.14)	*Vessel Movement Reporting System Area:* The navigable waters within a 25 nautical mile radius of Point Fermin Light (33°42.3′ N., 118°17.6′ W.).
Louisville: Not applicable		
Louisville Traffic	156.650 MHz (Ch. 13)	The waters of the Ohio River between McAlpine Locks (Mile 606) and Twelve Mile Island (Mile 593), only when the McAlpine upper pool gauge is at approximately 13.0 feet or above.
Lower Mississippi River [5]—0036699952		
New Orleans Traffic	156.700 MHz (Ch.14)	The navigable waters of the Lower Mississippi River below 30°38.7′ N., 91°17.5′ W. (Port Hudson Light at 255 miles Above Head of Passes (AHP)), the Southwest Pass, and, within a 12 nautical miles radius around 28°54.3′ N., 89°25.7′ W. (Southwest Pass Entrance Light at 19.9 miles Below Head of Passes).

TABLE 161.12(C).—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Center MMSI [1] *Call Sign*	Designated frequency (Channel designation)—purpose [2]	Monitoring area [3 4]
New Orleans Traffic	156.600 MHz (Ch.12)	*New Orleans Sector.* The navigable waters of the Lower Mississippi River bounded on the north by a line drawn perpendicularly at 29°56.4′ N., 90°08.36′ W. and on the south by a line drawn perpendicularly at 29°56.24′ N., 89°59.86′ W. (88 and 106 miles AHP).
New York—003669951		
New York Traffic	156.550 MHz (Ch. 11) —For Sailing Plans only 156.600 MHz (Ch. 12) —For vessels at anchor	The area consists of the navigable waters of the Lower New York Bay bounded on the east by a line drawn from Norton Point to Breezy Point; on the south by a line connecting the entrance buoys at the Ambrose Channel, Swash Channel, and Sandy Hook Channel to Sandy Hook Point; and on the southeast including the waters of Sandy Hook Bay south to a line drawn at latitude 40 25′ N; then west in the Raritan Bay to the Raritan River Railroad Bridge, then north into waters of the Arthur Kill and Newark Bay to the Lehigh Valley Draw Bridge at latitude 40 41.9N; and then east including the waters of the Kill Van Kull and the Upper New York Bay north to a line drawn east-west from the Holland Tunnel ventilator shaft at latitude 40 43.7′ N, longitude 74 01.6′ W, in the Hudson River; and then continuing east including the waters of the East River to the Throgs Neck Bridge, excluding the Harlem River.
New York Traffic	156.700 MHz (Ch. 14)	The navigable waters of the Lower New York Bay west of a line drawn from Norton Point to Breezy Point; and north of a line connecting the entrance buoys of Ambrose Channel, Swash Channel, and Sandy Hook Channel, to Sandy Hook Point; on the southeast including the waters of the Sandy Hook Bay south to a line drawn at latitude 40 25′ N; then west into the waters of Raritan Bay East Reach to a line drawn from Great Kills Light south through Raritan Bay East Reach LGB #14 to Comfort PT, NJ; then north including the waters of the Upper New York Bay south of 40 42.40′ N (Brooklyn Bridge) and 40 43.70′ N (Holland Tunnel Ventilator Shaft); west through the KVK into the Arthur Kill north of 40 38.25′ N (Arthur Kill Railroad Bridge); then north into the waters of the Newark Bay, south of 40 41.95′ N (Lehigh Valley Draw Bridge).
New York Traffic	156.600 MHz (Ch. 12)	The navigable waters of the Raritan Bay south to a line drawn at latitude 40 26′ N; then west of a line drawn from Great Kills Light south through the Raritan Bay East Reach LGB #14 to Point Comfort, NJ; then west to the Raritan River Railroad Bridge; and north including the waters of the Arthur Kill to 40 28.25′ N (Arthur Kill Railroad Bridge); including the waters of the East River north of 40 42.40′ N (Brooklyn Bridge) to the Throgs Neck Bridge, excluding the Harlem River.
Port Arthur [5]—003669955		
Sabine Traffic	To be determined	The navigable waters south of 30°10′ N., east of 94°20′ W., west of 93°22′ W, and, north of 29° 10′ N.
Prince William Sound—003669958		
Valdez Traffic	156.650 MHz (Ch. 13)	The navigable waters south of 61°05′ N., east of 147°20′ W., north of 60° N., and west of 146°30′ W.; and, all navigable waters in Port Valdez.
Puget Sound [6]		
Seattle Traffic—003669957	156.700 MHz (Ch. 14)	The waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Marrowstone Point and Lagoon Point in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Seattle Traffic—003669957	156.250 MHz (Ch. 5A)	The waters of the Strait of Juan de Fuca east of 124°40′ W. excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks; the navigable waters of the Strait of Georgia east of 122°52′ W.; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Marrowstone Point and Lagoon Point and all waters east of Whidbey Island North of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Tofino Traffic—003160012	156.725 MHz (Ch. 74)	The waters west of 124°40′ W. within 50 nautical miles of the coast of Vancouver Island including the waters north of 48° N., and east of 127° W.
Victoria Traffi—003160010	156.550 MHz (Ch. 11)	The waters of the Strait of Georgia west of 122° 52′ W., the navigable waters of the central Strait of Juan de Fuca north and east of Race Rocks, including the Gulf Island Archipelago, Boundary Pass and Haro Strait.

TABLE 161.12(C).—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Center MMSI [1] *Call Sign*	Designated frequency (Channel designation)—purpose [2]	Monitoring area [3] [4]
San Francisco—003669956		
San Francisco Traffic	156.700 MHz (Ch. 14)	The navigable waters of the San Francisco Offshore Precautionary Area, the navigable waters shoreward of the San Francisco Offshore Precautionary Area east of 122°42.0′ W. and north of 37°40.0′ N. extending eastward through the Golden Gate, and the navigable waters of San Francisco Bay and as far east as the port of Stockton on the San Joaquin River, as far north as the port of Sacramento on the Sacramento River.
San Francisco Traffic	156.600 MHz (Ch. 12)	The navigable waters within a 38 nautical mile radius of Mount Tamalpais (37°55.8′ N., 122°34.6′ W.) west of 122°42.0′ W. and south of 37°40.0′ N and excluding the San Francisco Offshore Precautionary Area.
St. Marys River—003669953		
Soo Traffic	156.600 MHz (Ch. 12)	The waters of the St. Marys River between 45°57′ N. (De Tour Reef Light) and 46°38.7′ N. (Ile Parisienne Light), except the St. Marys Falls Canal and those navigable waters east of a line from 46°04.16′ N. and 46°01.57′ N. (La Pointe to Sims Point in Potagannissing Bay and Worsley Bay).

Notes:

[1] Maritime Mobile Service Identifier (MMSI) is a unique nine-digit number assigned that identifies ship stations, ship earth stations, coast stations, coast earth stations, and group calls for use by a digital selective calling (DSC) radio, an INMARSAT ship earth station or AIS. AIS requirements are set forth in §§ 161.21 and 164.46 of this subchapter.

[2] In the event of a communication failure, difficulties or other safety factors, the Center may direct or permit a user to monitor and report on any other designated monitoring frequency or the bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13) or 156.375 MHz (Ch. 67), to the extent that doing so provides a level of safety beyond that provided by other means. The bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is used in certain monitoring areas where the level of reporting does not warrant a designated frequency.

[3] All geographic coordinates (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).

[4] Some monitoring areas extend beyond navigable waters. Although not required, users are strongly encouraged to maintain a listening watch on the designated monitoring frequency in these areas. Otherwise, they are required to maintain watch as stated in 47 CFR 80.148.

[5] Until rules regarding VTS Lower Mississippi River and VTS Port Arthur are published, vessels are exempted of all VTS and VMRS requirements set forth in 33 CFR part 161, except those set forth in §§ 161.21 and 164.46 of this subchapter.

[6] A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate Center administers the rules issued by both nations; however, enforces only its own set of rules within its jurisdiction. Note, the bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is not so designated in Canadian waters, therefore users are encouraged and permitted to make passing arrangements on the designated monitoring frequencies.

* * * * *

§ 161.15 [Amended]

■ 6. In § 161.15—

■ a. In paragraph (a), remove the word ''manage'' and add, in its place, the word ''monitor'';

■ b. In paragraph (a), following the words ''within a VTS'', add the words ''or VMRS'';

■ c. In paragraph (a) following the words ''directed by the'', remove the word ''VTS'' and add, in its place, the word ''Center'';

■ d. In paragraph (b), remove the word ''four'' and add, in its place, the word ''three''; and

■ e. In paragraph (b), following the word ''position'', remove the words ''sailing plan deviation''.

■ 7. In § 161.16, revise the introductory text to read as follows:

§ 161.16 Applicability.

Unless otherwise stated, the provisions of this subpart apply to the following vessels and VMRS Users:

* * * * *

■ 8. Revise § 161.17 to read as follows:

§ 161.17 Definitions.

As used in this subpart:

Center means a Vessel Traffic Center or Vessel Movement Center.

Published means available in a widely-distributed and publicly available medium (*e.g.,* VTS User's Manual, ferry schedule, Notice to Mariners).

§ 161.18 [Amended]

■ 9. In § 161.18—

■ a. In paragraph (a), remove the word ''VTS'' and add, in its place ''Center'';

■ b. In paragraphs (b) and (c), remove the words ''Table 161.12(b) (VTS Call Signs, Designated Frequencies, and Monitoring Areas)'' and add, in their place ''Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas)'';

■ c. Redesignate paragraph (d) as paragraph (e); and

■ d. Add new paragraph (d) to read as follows:

§ 161.18 Reporting requirements.

* * * * *

(d) A vessel must report:

(1) Any significant deviation from its Sailing Plan, as defined in § 161.19, or from previously reported information; or

(2) Any intention to deviate from a VTS issued measure or vessel traffic routing system.

* * * * *

§ 161.20 [Amended]

■ 10. In § 161.20—

■ a. In paragraph (a), remove the word ''VTS'' and add, in its place, the word ''VMRS'';

■ b. In paragraph (c), remove the word ''VTC'' and add, in its place, the word ''Center''; and

■ c. Remove the note at the end of the section.

■ 11. Revise § 161.21 to read as follows:

§ 161.21 Automated reporting.

(a) Unless otherwise directed, vessels equipped with an Automatic Identification System (AIS) are required to make continuous, all stations, AIS broadcasts, in lieu of voice Position Reports, to those Centers denoted in Table 161.12(c) of this part.

(b) Should an AIS become non-operational, while or prior to navigating a VMRS area, it should be restored to

operating condition as soon as possible, and, until restored a vessel must:

(1) Notify the Center;

(2) Make voice radio Position Reports at designated reporting points as required by § 161.20(b) of this part; and

(3) Make any other reports as directed by the Center.

§ 161.23 [Amended]

■ 12. In § 161.23, in paragraph (b)(1), remove the word ''VTS'' and, in its place, add the word ''VMRS''; remove paragraph (c); and remove the note at the end of the section.

Subpart C-Vessel Traffic Service and Vessel Movement Reporting System Areas and Reporting Points

■ 13. Revise the heading for subpart C to read as set forth immediately above.

PART 164—NAVIGATION SAFETY REGULATIONS

■ 14. Revise the authority citation for part 164 to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703, 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

■ 15. In § 164.01—

■ a. In paragraph (a) following the words ''except as provided in'', remove the words ''paragraph (c)'' and, in their place, add the words ''paragraphs (c) and (d)'';

■ b. In paragraph (c) remove the words ''and 164.33'', and, in their place, add the words ''164.33, and 164.46''; and

■ c. Add a new paragraph (d) to read as follows:

§ 164.01 Applicability.

* * * * *

(d) Provisions of § 164.46 apply to some self-propelled vessels of less than 1600 gross tonnage.

§ 164.02 [Amended]

■ 16. In § 164.02, at the beginning of paragraph (a), remove the words ''This part'', and, add in their place, the words ''Except as provided in § 164.46(a)(2) of this part''.

■ 17. In § 164.03(b), add the entry for ''International Electrotechnical Commission''; under the entry for ''International Maritime Organization (IMO),'' add entries for Resolution MSC.74(69), SN/Circ.277, SOLAS 2000 Amendments, Conference resolution 1; and under the entry for ''International Telecommunications Union Radiocommunication Bureau (ITU–R)'', add an entry for ITU–R Recommendation M.1371–1 to read as follows:

§ 164.03 Incorporation of reference.

* * * * *

(b) * * *

International Electrotechnical Commission (IEC)

3, rue de Varemb, Geneva, Switzerland.

IEC 61993–2, Maritime navigation and radiocommunication equipment and systems—Automatic identification systems (AIS)—part 2: Class A shipborne equipment of the universal automatic identification system (AIS)—Operational and performance requirements, methods of test and required test results First edition, 2001–12	164.46

International Maritime Organization (IMO)

Publication Section, 4 Albert Embankment, London SE1 7SR, United Kingdom.

Resolution MSC.74(69), Annex 3, Recommendation on Performance Standards for a Universal Shipborne Automatic Identification System (AIS), adopted May 12, 1998	164.46
SN/Circ.277, Guidelines for the Installation of a Shipborne Automatic Identification System (AIS), dated January 6, 2003	164.46
SOLAS, International Convention for Safety of Life at Sea, 1974, and 1988 Protocol relating thereto, 2000 Amendments, effective January and July 2002, (SOLAS 2000 Amendments)	164.46
Conference resolution 1, Adoption of amendments to the Annex to the International Convention for the Safety of Life at Sea, 1974, and amendments to Chapter V of SOLAS 1974, adopted December 12, 2002	164.46

International Telecommunication Union Radiocommunication Bureau (ITU–R)

Place de Nations, CH–1211 Geneva 20 Switzerland.

ITU–R Recommendation M.1371–1, Technical characteristics for a universal shipborne automatic identification system using time division multiple access in the VHF maritime mobile band, 1998–2001	164.46

§ 164.43 [Amended]

■ 18. In § 164.43—

■ a. Revise the section heading to read ''Automatic Identification System Shipborne Equipment—Prince William Sound'' ; and

■ b. In paragraph (a), remove the word ''Each'', and add, in its place, the words ''Until July 1, 2004, each''; and add the words ''under § 165.1704 of this subchapter'' immediately after the words ''Vessel Traffic Service (VTS)''.

■ 19. Add new § 164.46 to read as follows:

§ 164.46 Automatic Identification System (AIS).

(a) The following vessels must have an installed, operational AIS that complies with the IMO Resolution MSC.74(69), ITU–R Recommendation M.1371–1, and IEC 61993–2, and that is installed using IMO SN/Circ.277 (Incorporated by reference, see § 164.03) as of the date specified. ''Length'' refers to ''registered length'' as defined in 46 CFR, part 69.

(1) Self-propelled vessels of 65 feet or more in length engaged in commercial service and on an international voyage, not later than December 31, 2004.

(2) Notwithstanding paragraph (a)(1) of this section, the following vessels subject to the International Convention for Safety at Life at Sea, 1974, (SOLAS) as amended, that are on an international voyage must also comply with SOLAS, chapter V, as amended by SOLAS 2000 Amendments and Conference resolution 1 (Incorporated by reference, see § 164.03):

(i) Passenger vessels, of 150 gross tonnage or more, not later than July 1, 2003;

(ii) Tankers, regardless of tonnage, not later than the first safety survey for safety equipment on or after July 1, 2003;

(iii) Vessels, other than passenger vessels or tankers, of 50,000 gross tonnage or more, not later than July 1, 2004; and

(iv) Vessels, other than passenger vessels or tankers, of 300 gross tonnage or more but less than 50,000 gross tonnage, not later than the first safety survey for safety equipment on or after July 1, 2004, but no later than December 31, 2004.

(b) Notwithstanding paragraphs (a)(1) and (a)(2) of this section, the following vessels, transiting an area listed in table 161.12(c) of § 161.12 of this part.

(1) Each self-propelled vessel of 65 feet or more in length, engaged in commercial service;

(2) Each towing vessel of 26 feet or more in length and more than 600 horsepower;

(3) Each vessel of 100 gross tons or more carrying one or more passengers for hire; and

(4) Each passenger vessel certificated to carry 50 or more passengers for hire.

(c) The vessels listed in paragraph (b) of this section must comply according to the following schedule:

(1) For VTS St. Marys River, not later than December 31, 2003;

(2) For VTS Berwick Bay, VMRS Los Angeles/Long Beach, VTS Lower Mississippi River, VTS Port Arthur and VTS Prince William Sound, not later than July 1, 2004; and

(3) For VTS Houston-Galveston, VTS New York, VTS Puget Sound, and VTS San Francisco, not later than December 31, 2004.

(d) The requirements for Vessel Bridge-to-Bridge radiotelephones in §§ 26.04(a) and (c), 26.05, 26.06 and 26.07 of this chapter, also apply to AIS. The term ''effective operating condition'' used in § 26.06 includes accurate input and upkeep of all AIS data fields, including estimated time of arrival, destination, and number of people on board.

(e) The use of a portable AIS is permissible, only to the extent that electromagnetic interference does not affect the proper function of existing navigation and communication equipment on board, and such that only one AIS unit may be in operation at any one time.

(f) The AIS Pilot Plug, on each vessel over 1,600 gross tons, on international voyage, shall be available for pilot use, easily accessible from the primary conning position of the vessel, and near an AC power receptacle.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 20. Revise the authority citation for part 165 to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

§ 165.1704 [Amended]

■ 21. In § 165.1704, at the beginning of paragraph (c)(6) remove the words ''Not later than July 1, 1994,'', and, add in their place, the words ''Until July 1, 2004,''.

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, Coast Guard, Commandant.

[FR Doc. 03–16191 Filed 6–27–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–14878]

Automatic Identification System; Expansion of Carriage Requirements for U.S. Waters

AGENCY: Coast Guard, DHS.

ACTION: Notice; request for comments.

SUMMARY: The Maritime Transportation Security Act of 2002 requires certain vessels to carry an Automatic Identification System. In an interim rule published elsewhere in today's **Federal Register,** the Coast Guard is requiring Automatic Identification System carriage as agreed to by the international community in amendments to the International Convention for the Safety of Life at Sea, 1974, and as directed by the Maritime Transportation Security Act. That rulemaking, however, covers only vessels on international voyages and certain vessels on specified waterways of the United States. This notice solicits comment on how best to address implementation on the remaining navigable waters of the U.S. for vessels not on international voyages.

DATES: Comments and related material must reach the Docket Management Facility on or before September 29, 2003.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2003–14878), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Mr. Jorge Arroyo, Office of Vessel Traffic Management (G–MWV–1), U.S. Coast Guard Headquarters, telephone: 202–267–6277, fax: 202–267–4826 or e-mail: *jarroyo@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone: 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate by submitting comments and related material. If you do so, please include your name and address, identify the docket number [USCG–2003–14878], indicate the specific question of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Your comments and any other matters you bring to our attention during the comment period will be taken into account in Coast Guard actions regarding the issues raised in the *Questions* section below.

Note, matters pertaining to AIS licensing, equipment certification, and frequencies are subject to Federal Communications Commission regulations and are not addressed in this notice, see FCC Public Notice DA 02–1362 in the docket for further information.

Background and Purpose

The Maritime Transportation Security Act of 2002 (MTSA), Public Law 107–295, was enacted November 25, 2002, and requires that four specific categories of vessels be equipped with and operate an Automatic Identification System (AIS). These categories are—

1. Self-propelled commercial vessels 65 feet or more in length;

2. Vessels carrying more than a number of passengers for hire determined by the Secretary of the agency in which the Coast Guard is operating;

3. Towing vessels of more than 26 feet in length and 600 horsepower; and

4. Other vessels for which the Secretary determines AIS is necessary for safe navigation of the vessel. (46 U.S.C. 70114(a)(1)(A)–(D)).

Under the MTSA, vessels that must be equipped with AIS must use it in all navigable waters of the United States, unless the Secretary finds that AIS is not needed for safe navigation on specified navigable waters. If such a finding is made, the Secretary may waive the AIS requirements in those waters (46 U.S.C. 70114(a)(2)(B)). The MTSA also allows the Secretary to exempt a vessel from the AIS requirement if the Secretary finds that AIS is not necessary for the safe navigation of the vessel on the waters on which the vessel operates (46 U.S.C. 70114(a)(2)(A)).

In an interim rule published elsewhere in today's **Federal Register,** titled ''Automatic Identification System; Vessel Carriage Requirement'' (Docket USCG–2003–14757, RIN 1625–AA67), the Coast Guard will require the following vessels to install and operate AIS:

(1) Vessels subject to the International Convention for the Safety of Life at Sea, 1974, (SOLAS) and on international voyage, under the schedule set forth in SOLAS chapter V, regulation 19.2.4;

(2) Vessels not subject to SOLAS that are 65 feet or more in length, in commercial service and on an international voyage, by December 31, 2004; and

(3) The following Vessel Traffic Service (VTS) and Vessel Movement Reporting System (VMRS) users:

(i) Self-propelled vessels of 65 feet or more in length, in commercial service;

(ii) Towing vessels 26 feet or more in length and more than 600 horsepower;

(iii) Vessels of 100 gross tons or more carrying one or more passengers for hire; and

(iv) Passenger vessels certificated to carry 50 or more passengers for hire.

These vessels must comply: by December 31, 2003, within VTS St. Marys River; by July 1, 2004, within VTS Berwick Bay, VMRS Los Angeles/Long Beach, VTS Lower Mississippi River, VTS Port Arthur and VTS Prince William Sound; by December 31, 2004, within VTS Houston-Galveston, VTS New York, VTS Puget Sound, and VTS San Francisco.

The Coast Guard recognizes the benefits of AIS and has been a leading

proponent of AIS technology since its inception. AIS is an effective navigation and communications tool for reducing collisions, enhancing situational awareness, and playing a part in U.S. maritime domain awareness. Its corollary function, as a surveillance tool, has taken on greater import in these times of heightened vigilance and proactive homeland security. Achieving accurate, real-time maritime domain awareness is of vital interest to the Coast Guard and the Nation. Congress passed the MTSA and the international community, upon the initiative of the Unites States and through the actions of the International Maritime Organization (IMO), amended SOLAS to accelerate the implementation of AIS.

Our AIS interim rule (USCG–2003–14757), published elsewhere in today's **Federal Register,** is the first step in that process. That interim rule will implement AIS in accordance with the schedule agreed to at the IMO Diplomatic Conference held in December 2002 on vessels on international voyages (see table below), and it also imposes an AIS requirement on all commercial VTS and VMRS users.

TABLE—SOLAS AIS SCHEDULE (CHAPTER V, REGULATION 19.2.4) FOR VESSELS ON INTERNATIONAL VOYAGES

Constructed	Type of vessel	Implementation date
On or after July 1, 2002	All	July 1, 2002.
Before July 1, 2002	Passenger ships (carrying 12 or more passengers)	July 1, 2003.
	Tankers	First survey for safety equipment on or after July 1, 2003.
	Ships, other than passenger ships and tankers, greater than or equal to 50,000 gross tonnage.	July 1, 2004
	Ships, other than passenger ships and tankers, greater than or equal to 300, but less than 50,000 gross tonnage.	First safety equipment survey after July 1, 2004, or by December 31, 2004, whichever occurs earlier.

The process of deploying this technology into all existing and future VTS areas is well underway. The Coast Guard intends to expand the safety and security benefits of AIS by extending the shore-tracking surveillance capability throughout our Nation's waterways as a major element of maritime domain awareness and homeland security.

Design and installation of the expanded capability is underway but not yet fully operational. Therefore, we want to take this opportunity to ask some questions of the public to (1) assist us in developing an overall AIS strategy, and (2) address expanded carriage of AIS beyond SOLAS vessels, VTS and VMRS areas, and certain other commercial and non-commercial vessels that are omitted from the AIS interim rule (USCG–2003–14757) published elsewhere in today's **Federal Register**.

Questions

We need the public's assistance in answering the following questions, and any additional information provided on this topic is welcome. In responding to each question, please explain your reasons for each answer as specifically as possible so that we can carefully weigh the consequences and impacts of any future actions we may take.

In preparing your response to these questions, please indicate your position in the maritime industry as well as the type of vessel, cargo, and charter agreement specific to your situation, if applicable.

(1) Recognizing that AIS may ultimately be required on all navigable waters, what particular waterways or ports should be implemented before others?

(2) Are there particular waterways where the AIS requirements should be waived? Why?

(3) AIS is not specifically mandated (by the MTSA) on all vessels. The MTSA, however, does allow the Secretary to require AIS on any vessel if deemed necessary for safe navigation. Should other vessels (*e.g.*, commercial vessels under 65 feet in length, towing vessels under 26 feet and 600 horsepower, dredges and floating plants, recreational vessels, offshore facilities, or Mobile Offshore Drilling Units) be required to have AIS?

(4) SOLAS expects nations to implement their AIS carriage on their domestic fleet (vessels over 500 gross tonnage and passenger vessels not on international voyage) not later than July 1, 2008. However, the MTSA requires AIS by December 31, 2004. Knowing this, should certain vessels be granted temporary exemptions regarding the compliance dates in MTSA?

(5) Under what circumstances, if any, should a vessel be exempted from the AIS requirements per the MTSA exemption?

(6) SOLAS defines a passenger vessel as carrying 12 or more passengers. VTS regulations define VTS users as passenger vessels over 100 gross tons carrying 1 or more passengers or those certificated to carry 50 or more passenger. The MTSA allows the Secretary to determine the threshold number of passengers when determining which passenger vessels are required to have AIS. Should we expand AIS carriage beyond what is already defined in SOLAS and our rule?

(7) Should the Coast Guard encourage or require the use of systems such as electronic chart display and information system (ECDIS) and electronic chart system (ECS) to display AIS information to enhance navigation safety? Are there other systems that could be used for this purpose?

(8) Would you be more likely to install an ECDIS or ECS on your vessel, to display AIS information, if the system could be used to comply with an existing requirement to carry nautical charts?

As noted previously, comments regarding these questions, and any other pertinent matters brought to our attention during the comment period, will be taken into account in our future actions regarding the issues raised by these questions.

Public Meeting

The Coast Guard is considering having two public meetings on this topic, in addition to the public meeting announced in the AIS interim rule, published elsewhere in today's **Federal Register**. We would like your comments on the questions and particular issues that should be addressed at these meetings, as well as where the meetings should be held. Send your comments requesting a public meeting to the Docket Management Facility at the address under **ADDRESSES**. We will announce a time and place for each meeting by a later notice in the **Federal Register**.

Dated: June 23, 2003.

Thomas H. Collins,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 03–16192 Filed 6–27–03; 8:45 am]

BILLING CODE 4910–15–P

Federal Register

Tuesday,
July 1, 2003

Part III

Department of Defense

Office of the Secretary

32 CFR Parts 9, 10, 11, et al.

Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism; Military Commision Instructions, et al.; Final Rules

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 9

Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule implements policy, assigns responsibilities, and prescribes procedures under the United States Constitution, Article II, section 2 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' for trials before military commissions of individuals subject to the President's Military Order. These procedures shall be implemented and construed so as to ensure that any such individual receives a full and fair trial before a military commission, as required by the President's Military Order. Unless otherwise directed by the Secretary of Defense, and except for supplemental procedures established pursuant to the President's Military Order or this part, the procedures prescribed herein and no others shall govern such trials.

EFFECTIVE DATE: March 21, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rulemaking, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89–544)

It has been certified that 32 CFR part 9 is as a military function of the United States and exempt from administrative procedures for rulemaking.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 9 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under section 3, para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 9 does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 9 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 9 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the national government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 9

Military law.

■ Accordingly, 32 CFR part 9 is added to subtitle A, chapter I, subchapter B to read as follows:

PART 9—PROCEDURES FOR TRIALS BY MILITARY COMMISSIONS OF CERTAIN NON-UNITED STATES CITIZENS IN THE WAR AGAINST TERROISM

Sec.
9.1 Purpose.
9.2 Establishment of Military Commissions.
9.3 Jurisdiction.
9.4 Commission personnel.
9.5 Procedures accorded the accused.
9.6 Conduct of the trial.
9.7 Regulations.
9.8 Authority.
9.9 Protection of State secrets.
9.10 Other.
9.11 Amendment.
9.12 Delegation.

Authority: 5 U.S.C. 552(1)(a)(1)(C) and (D).

§ 9.1 Purpose.

This part implements policy, assigns responsibilities, and prescribes procedures under the United States Constitution, Article II, section 2 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism'' (3 CFR, 2001 comp., p. 918, 66 FR 57833), for trials before military commissions of individuals subject to the President's Military Order. These procedures shall be implemented and construed so as to ensure that any such individual receives a full and fair trial before a military commission, as required by the President's Military Order. Unless otherwise directed by the Secretary of Defense, and except for supplemental procedures established pursuant to the President's Military Order or this part, the procedures prescribed herein and no others shall govern such trials.

§ 9.2 Establishment of Military Commissions.

In accordance with the President's Military Order, the Secretary of Defense or a designee (''Appointing Authority'') may issue orders from time to time appointing one or more military commissions to try individuals subject to the President's Military Order and appointing any other personnel necessary to facilitate such trials.

§ 9.3 Jurisdiction.

(a) Over persons. A military commission appointed under this part (''Commission'') shall have jurisdiction over only an individual or individuals (''the Accused''):

(1) Subject to the President's Military Order; and

(2) Alleged to have committed an offense in a charge that has been referred to the Commission by the Appointing Authority.

(b) *Over offenses.* Commissions established hereunder shall have jurisdiction over violations of the laws of war and all other offenses triable by military commission.

(c) *Maintaining integrity of commission proceedings.* The Commission may exercise jurisdiction over participants in its proceedings as necessary to preserve the integrity and order of the proceedings.

§ 9.4 Commission personnel.

(a) *Members*—(1) *Appointment.* The Appointing Authority shall appoint the members and the alternate member or members of each Commission. The alternate member or members shall attend all sessions of the Commission, but the absence of an alternate member shall not preclude the Commission from conducting proceedings. In case of incapacity, resignation, or removal of any member, an alternate member shall take the place of that member. Any vacancy among the members or alternate members occurring after a trial has begun may be filled by the Appointing Authority, but the substance of all prior proceedings and evidence taken in that case shall be made known

to that new member or alternate member before the trial proceeds.

(2) *Number of members.* Each Commission shall consist of at least three but no more than seven members, the number being determined by the Appointing Authority. For each such Commission, there shall also be one or two alternate members, the number being determined by the Appointing Authority.

(3) *Qualifications.* Each member and alternate member shall be a commissioned officer of the United States armed forces (''Military Officer''), including without limitation reserve personnel on active duty, National Guard personnel on active duty in Federal service, and retired personnel recalled to active duty. The Appointing Authority shall appoint members and alternate members determined to be competent to perform the duties involved. The Appointing Authority may remove members and alternate members for good cause.

(4) *Presiding Officer.* From among the members of each Commission, the Appointing Authority shall designate a Presiding Officer to preside over the proceedings of that Commission. The Presiding Officer shall be a Military Officer who is a judge advocate of any United States armed force.

(5) *Duties of the Presiding Officer.* (i) The Presiding Officer shall admit or exclude evidence at trial in accordance with section 6(d) of this part. The Presiding Officer shall have authority to close proceedings or portions of proceedings in accordance with §9.6(b)(3) of this part and for any other reason necessary for the conduct of a full and fair trial.

(ii) The Presiding Officer shall ensure that the discipline, dignity, and decorum of the proceedings are maintained, shall exercise control over the proceedings to ensure proper implementation of the President's Military Order and this part, and shall have authority to act upon any contempt or breach of Commission rules and procedures. Any attorney authorized to appear before a Commission who is thereafter found not to satisfy the requirements for eligibility or who fails to comply with laws, rules, regulations, or other orders applicable to the Commission proceedings or any other individual who violates such laws, rules, regulations, or orders may be disciplined as the Presiding Officer deems appropriate, including but not limited to revocation of eligibility to appear before that Commission. The Appointing Authority may further revoke that attorney's or any other person's eligibility to appear before any other Commission convened under this part.

(iii) The Presiding Officer shall ensure the expeditious conduct of the trial. In no circumstance shall accommodation of counsel be allowed to delay proceedings unreasonably.

(iv) The Presiding Officer shall certify all interlocutory questions, the disposition of which would effect a termination of proceedings with respect to a charge, for decision by the Appointing Authority. The Presiding Officer may certify other interlocutory questions to the Appointing Authority as the Presiding Officer deems appropriate.

(b) *Prosecution*—(1) *Office of the Chief Prosecutor.* The Chief Prosecutor shall be a judge advocate of any United States armed force, shall supervise the overall prosecution efforts under the President's Military Order, and shall ensure proper management of personnel and resources.

(2) *Prosecutors and Assistant Prosecutors.* (i) Consistent with any supplementary regulations or instructions issued under § 9.7(a), the Chief Prosecutor shall detail a Prosecutor and, as appropriate, one or more Assistant Prosecutors to prepare charges and conduct the prosecution for each case before a Commission (''Prosecution''). Prosecutors and Assistant Prosecutors shall be:

(A) Military Officers who are judge advocates of any United States armed force, or

(B) Special trial counsel of the Department of Justice who may be made available by the Attorney General of the United States.

(ii) The duties of the Prosecution are:

(A) To prepare charges for approval and referral by the Appointing Authority;

(B) To conduct the prosecution before the Commission of all cases referred for trial; and

(C) To represent the interests of the Prosecution in any review process.

(c) *Defense*—(1) *Office of the Chief Defense Counsel.* The Chief Defense Counsel shall be a judge advocate of any United States armed force, shall supervise the overall defense efforts under the President's Military Order, shall ensure proper management of personnel and resources, shall preclude conflicts of interest, and shall facilitate proper representation of all Accused.

(2) *Detailed Defense Counsel.* Consistent with any supplementary regulations or instructions issued under § 9.7(a), the Chief Defense Counsel shall detail one or more Military Officers who are judge advocates of any United States armed force to conduct the defense for each case before a Commission (''Detailed Defense Counsel''). The duties of the Detailed Defense Counsel are:

(i) To defend the Accused zealously within the bounds of the law without regard to personal opinion as to the guilt of the Accused; and

(ii) To represent the interests of the Accused in any review process as provided by this part.

(iii) *Choice of Counsel.* (A) The Accused may select a Military Officer who is a judge advocate of any United States armed force to replace the Accused's Detailed Defense Counsel, provided that Military Officer has been determined to be available in accordance with any applicable supplementary regulations or instructions issued under § 9.7(a). After such selection of a new Detailed Defense Counsel, the original Detailed Defense Counsel will be relieved of all duties with respect to that case. If requested by the Accused, however, the Appointing Authority may allow the original Detailed Defense Counsel to continue to assist in representation of the Accused as another Detailed Defense Counsel.

(B) The Accused may also retain the services of a civilian attorney of the Accused's own choosing and at no expense to the United States Government (''Civilian Defense Counsel''), provided that attorney:

(*1*) Is a United States citizen;

(*2*) Is admitted to the practice of law in a State, district, territory, or possession of the United States, or before a Federal court;

(*3*) Has not been the subject of any sanction or disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

(*4*) Has been determined to be eligible for access to information classified at the level SECRET or higher under the authority of and in accordance with the procedures prescribed in DoD 5200.2–R [1]; and

(*5*) Has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings. Civilian attorneys may be pre-qualified as members of the pool of available attorneys if, at the time of application, they meet the relevant criteria, or they may be qualified on an *ad hoc* basis after being requested by an Accused. Representation by Civilian Defense Counsel will not relieve Detailed Defense Counsel of the duties specified

[1] Available from *www.ditc.mil/whs/directives.*

in paragraph (c)(2) of this section. The qualification of a Civilian Defense Counsel does not guarantee that person's presence at closed Commission proceedings or that person's access to any information protected under § 9.6(d)(5).

(4) *Continuity of representation.* The Accused must be represented at all relevant times by Detailed Defense Counsel. Detailed Defense Counsel and Civilian Defense Counsel shall be herein referred to collectively as ''Defense Counsel.'' The Accused and Defense Counsel shall be herein referred to collectively as ''the Defense.''

(d) *Other Personnel.* Other personnel, such as court reporters, interpreters, security personnel, bailiffs, and clerks may be detailed or employed by the Appointing Authority, as necessary.

§ 9.5 Procedures accorded the accused.

The following procedures shall apply with respect to the Accused:

(a) The Prosecution shall furnish to the Accused, sufficiently in advance of trial to prepare a defense, a copy of the charges in English and, if appropriate, in another language that the Accused understands.

(b) The Accused shall be presumed innocent until proven guilty.

(c) A Commission member shall vote for a finding of Guilty as to an offense if and only if that member is convinced beyond a reasonable doubt, based on the evidence admitted at trial, that the Accused is guilty of the offense.

(d) At least one Detailed Defense Counsel shall be made available to the Accused sufficiently in advance of trial to prepare a defense and until any findings and sentence become final in accordance with § 9.6(h)(2).

(e) The Prosecution shall provide the Defense with access to evidence the Prosecution intends to introduce at trial and with access to evidence known to the Prosecution that tends to exculpate the Accused. Such access shall be consistent with § 9.6(d)(5) and subject to § 9.9.

(f) The Accused shall not be required to testify during trial. A Commission shall draw no adverse inference from an Accused's decision not to testify. This subsection shall not preclude admission of evidence of prior statements or conduct of the Accused.

(g) If the Accused so elects, the Accused may testify at trial on the Accused's own behalf and shall then be subject to cross-examination.

(h) The Accused may obtain witnesses and documents for the Accused's defense, to the extent necessary and reasonably available as determined by the Presiding Officer. Such access shall be consistent with the requirements of § 9.6(d)(5) and subject to § 9.9. The Appointing Authority shall order that such investigative or other resources be made available to the Defense as the Appointing Authority deems necessary for a full and fair trial.

(i) The Accused may have Defense Counsel present evidence at trial in the Accused's defense and cross-examine each witness presented by the Prosecution who appears before the Commission.

(j) The Prosecution shall ensure that the substance of the charges, the proceedings, and any documentary evidence are provided in English and, if appropriate, in another language that the Accused understands. The Appointing Authority may appoint one or more interpreters to assist the Defense, as necessary.

(k) The Accused may be present at every stage of the trial before the Commission, consistent with § 9.6(b)(3), unless the Accused engages in disruptive conduct that justifies exclusion by the Presiding Officer. Detailed Defense Counsel may not be excluded from any trial proceeding or portion thereof.

(l) Except by order of the Commission for good cause shown, the Prosecution shall provide the Defense with access before sentencing proceedings to evidence the Prosecution intends to present in such proceedings. Such access shall be consistent with § 9.6(d)(5) of this part and subject to § 9.9.

(m) The Accused may make a statement during sentencing proceedings.

(n) The Accused may have Defense Counsel submit evidence to the Commission during sentencing proceedings.

(o) The Accused shall be afforded a trial open to the public (except proceedings closed by the Presiding Officer), consistent with § 9.6(b).

(p) The Accused shall not again be tried by any Commission for a charge once a Commission's finding on that charge becomes final in accordance with § 9.6(h)(2).

§ 9.6 Conduct of the trial.

(a) *Pretrial procedures*—(1) Preparation of the Charges. The Prosecution shall prepare charges for approval by the Appointing Authority, as provided in § 9.4(b)(2)(i).

(2) *Referral to the Commission.* The Appointing Authority may approve and refer for trial any charge against an individual or individuals within the jurisdiction of a Commission in accordance with § 9.3(a) and alleging an offense within the jurisdiction of a Commission in accordance with § 9.3(b).

(3) *Notification of the accused.* The Prosecution shall provide copies of the charges approved by the Appointing Authority to the Accused and Defense Counsel. The Prosecution also shall submit the charges approved by the Appointing Authority to the Presiding Officer of the Commission to which they were referred.

(4) *Plea Agreements.* The Accused, through Defense Counsel, and the Prosecution may submit for approval to the Appointing Authority a plea agreement mandating a sentence limitation or any other provision in exchange for an agreement to plead guilty, or any other consideration. Any agreement to plead guilty must include a written stipulation of fact, signed by the Accused, that confirms the guilt of the Accused and the voluntary and informed nature of the plea of guilty. If the Appointing Authority approves the plea agreement, the Commission will, after determining the voluntary and informed nature of the plea agreement, admit the plea agreement and stipulation into evidence and be bound to adjudge findings and a sentence pursuant to that plea agreement.

(5) *Issuance and service of process; obtaining evidence.* (i) The Commission shall have power to:

(A) Summon witnesses to attend trial and testify;

(B) Administer oaths or affirmations to witnesses and other persons and to question witnesses;

(C) Require the production of documents and other evidentiary material; and

(D) Designate special commissioners to take evidence.

(ii) The Presiding Officer shall exercise these powers on behalf of the Commission at the Presiding Officer's own initiative, or at the request of the Prosecution or the Defense, as necessary to ensure a full and fair trial in accordance with the President's Military Order and this part. The Commission shall issue its process in the name of the Department of Defense over the signature of the Presiding Officer. Such process shall be served as directed by the Presiding Officer in a manner calculated to give reasonable notice to persons required to take action in accordance with that process.

(b) *Duties of the Commission during trial.* The Commission shall:

(1) Provide a full and fair trial.

(2) Proceed impartially and expeditiously, strictly confining the proceedings to a full and fair trial of the charges, excluding irrelevant evidence,

and preventing any unnecessary interference or delay.

(3) Hold open proceedings except where otherwise decided by the Appointing Authority or the Presiding Officer in accordance with the President's Military Order and this part. Grounds for closure include the protection of information classified or classifiable under Executive Order 12958; information protected by law or rule from unauthorized disclosure; the physical safety of participants in Commission proceedings, including prospective witnesses; intelligence and law enforcement sources, methods, or activities; and other national security interests. The Presiding Officer may decide to close all or part of a proceeding on the Presiding Officer's own initiative or based upon a presentation, including an *ex parte, in camera* presentation by either the Prosecution or the Defense. A decision to close a proceeding or portion thereof may include a decision to exclude the Accused, Civilian Defense Counsel, or any other person, but Detailed Defense Counsel may not be excluded from any trial proceeding or portion thereof. Except with the prior authorization of the Presiding Officer and subject to section 9 of this part, Defense Counsel may not disclose any information presented during a closed session to individuals excluded from such proceeding or part thereof. Open proceedings may include, at the discretion of the Appointing Authority, attendance by the public and accredited press, and public release of transcripts at the appropriate time. Proceedings should be open to the maximum extent practicable. Photography, video, or audio broadcasting, or recording of or at Commission proceedings shall be prohibited, except photography, video, and audio recording by the Commission pursuant to the direction of the Presiding Officer as necessary for preservation of the record of trial.

(4) Hold each session at such time and place as may be directed by the Appointing Authority. Members of the Commission may meet in closed conference at any time.

(5) As soon as practicable at the conclusion of a trial, transmit an authenticated copy of the record of trial to the Appointing Authority.

(c) *Oaths.* (1) Members of a Commission, all Prosecutors, all Defense Counsel, all court reporters, all security personnel, and all interpreters shall take an oath to perform their duties faithfully.

(2) Each witness appearing before a Commission shall be examined under oath, as provided in paragraph (d)(2)(ii) of this section.

(3) An oath includes an affirmation. Any formulation that appeals to the conscience of the person to whom the oath is administered and that binds that person to speak the truth, or, in the case of one other than a witness, properly to perform certain duties, is sufficient.

(d) *Evidence*—(1) *Admissibility.* Evidence shall be admitted if, in the opinion of the Presiding Officer (or instead, if any other member of the Commission so requests at the time the Presiding Officer renders that opinion, the opinion of the Commission rendered at that time by a majority of the Commission), the evidence would have probative value to a reasonable person.

(2) *Witnesses*—(i) *Production of witnesses.* The Prosecution or the Defense may request that the Commission hear the testimony of any person, and such testimony shall be received if found to be admissible and not cumulative. The Commission may also summon and hear witnesses on its own initiative. The Commission may permit the testimony of witnesses by telephone, audiovisual means, or other means; however, the Commission shall consider the ability to test the veracity of that testimony in evaluating the weight to be given to the testimony of the witness.

(ii) *Testimony.* Testimony of witnesses shall be given under oath or affirmation. The Commission may still hear a witness who refuses to swear an oath or make a solemn undertaking; however, the Commission shall consider the refusal to swear an oath or give an affirmation in evaluating the weight to be given to the testimony of the witness.

(iii) *Examination of witnesses.* A witness who testifies before the Commission is subject to both direct examination and cross-examination. The Presiding Officer shall maintain order in the proceedings and shall not permit badgering of witnesses or questions that are not material to the issues before the Commission. Members of the Commission may question witnesses at any time.

(iv) *Protection of witnesses.* The Presiding Officer shall consider the safety of witnesses and others, as well as the safeguarding of Protected Information as defined in paragraph (d)(5)(i) of this section, in determining the appropriate methods of receiving testimony and evidence. The Presiding Officer may hear any presentation by the Prosecution or the Defense, including an *ex parte, in camera* presentation, regarding the safety of potential witnesses before determining the ways in which witnesses and evidence will be protected. The Presiding Officer may authorize any methods appropriate for the protection of witnesses and evidence. Such methods may include, but are not limited to: testimony by telephone, audiovisual means, or other electronic means; closure of the proceedings; introduction of prepared declassified summaries of evidence; and the use of pseudonyms.

(3) *Other evidence.* Subject to the requirements of paragraph (d)(1) of this section concerning admissibility, the Commission may consider any other evidence including, but not limited to, testimony from prior trials and proceedings, sworn or unsworn written statements, physical evidence, or scientific or other reports.

(4) *Notice.* The Commission may, after affording the Prosecution and the Defense an opportunity to be heard, take conclusive notice of facts that are not subject to reasonable dispute either because they are generally known or are capable of determination by resort to sources that cannot reasonably be contested.

(5) *Protection of Information*—(i) *Protective Order.* The Presiding Officer may issue protective orders as necessary to carry out the Military Order and this part, including to safeguard ''Protected Information,'' which includes:

(A) Information classified or classifiable pursuant to Executive Order 12958;

(B) Information protected by law or rule from unauthorized disclosure;

(C) Information the disclosure of which may endanger the physical safety of participants in Commission proceedings, including prospective witnesses;

(D) Information concerning intelligence and law enforcement sources, methods, or activities; or

(E) Information concerning other national security interests. As soon as practicable, counsel for either side will notify the Presiding Officer of any intent to offer evidence involving Protected Information.

(ii) *Limited disclosure.* The Presiding Officer, upon motion of the Prosecution or *sua sponte,* shall, as necessary to protect the interests of the United States and consistent with § 9.9, direct:

(A) The deletion of specified items of Protected Information from documents to be made available to the Accused, Detailed Defense Counsel, or Civilian Defense Counsel;

(B) The substitution of a portion or summary of the information for such Protected Information; or

(C) The substitution of a statement of the relevant facts that the Protected

Information would tend to prove. The Prosecution's motion and any materials submitted in support thereof or in response thereto shall, upon request of the Prosecution, be considered by the Presiding Officer *ex parte*, *in camera*, but no Protected Information shall be admitted into evidence for consideration by the Commission if not presented to Detailed Defense Counsel.

(iii) *Closure of proceedings.* The Presiding Officer may direct the closure of proceedings in accordance with paragraph (b)(3) of this section.

(iv) *Protected information as part of the record of trial.* All exhibits admitted as evidence but containing Protected Information shall be sealed and annexed to the record of trial. Additionally, any Protected Information not admitted as evidence but reviewed *in camera* and subsequently withheld from the Defense over Defense objection shall, with the associated motions and responses and any materials submitted in support thereof, be sealed and annexed to the record of trial as additional exhibits. Such sealed material shall be made available to reviewing authorities in closed proceedings.

(e) *Proceedings during trial.* The proceedings at each trial will be conducted substantially as follows, unless modified by the Presiding Officer to suit the particular circumstances:

(1) Each charge will be read, or its substance communicated, in the presence of the Accused and the Commission.

(2) The Presiding Officer shall ask each Accused whether the Accused pleads ''Guilty'' or ''Not Guilty.'' Should the Accused refuse to enter a plea, the Presiding Officer shall enter a plea of ''Not Guilty'' on the Accused's behalf. If the plea to an offense is ''Guilty,'' the Presiding Officer shall enter a finding of Guilty on that offense after conducting sufficient inquiry to form an opinion that the plea is voluntary and informed. Any plea of Guilty that is not determined to be voluntary and informed shall be changed to a plea of Not Guilty. Plea proceedings shall then continue as to the remaining charges. If a plea of ''Guilty'' is made on all charges, the Commission shall proceed to sentencing proceedings; if not, the Commission shall proceed to trial as to the charges for which a ''Not Guilty'' plea has been entered.

(3) The Prosecution shall make its opening statement.

(4) The witnesses and other evidence for the Prosecution shall be heard or received.

(5) The Defense may make an opening statement after the Prosecution's opening statement or prior to presenting its case.

(6) The witnesses and other evidence for the Defense shall be heard or received.

(7) Thereafter, the Prosecution and the Defense may introduce evidence in rebuttal and surrebuttal.

(8) The Prosecution shall present argument to the Commission. Defense Counsel shall be permitted to present argument in response, and then the Prosecution may reply in rebuttal.

(9) After the members of the Commission deliberate and vote on findings in closed conference, the Presiding Officer shall announce the Commission's findings in the presence of the Commission, the Prosecution, the Accused, and Defense Counsel. The individual votes of the members of the Commission shall not be disclosed.

(10) In the event a finding of Guilty is entered for an offense, the Prosecution and the Defense may present information to aid the Commission in determining an appropriate sentence. The Accused may testify and shall be subject to cross-examination regarding any such testimony.

(11) The Prosecution and, thereafter, the Defense shall present argument to the Commission regarding sentencing.

(12) After the members of the Commission deliberate and vote on a sentence in closed conference, the Presiding Officer shall announce the Commission's sentence in the presence of the Commission, the Prosecution, the Accused, and Defense Counsel. The individual votes of the members of the Commission shall not be disclosed.

(f) *Voting.* Members of the Commission shall deliberate and vote in closed conference. A Commission member shall vote for a finding of Guilty as to an offense if and only if that member is convinced beyond a reasonable doubt, based on the evidence admitted at trial, that the Accused is guilty of the offense. An affirmative vote of two-thirds of the members is required for a finding of Guilty. When appropriate, the Commission may adjust a charged offense by exceptions and substitutions of language that do not substantially change the nature of the offense or increase its seriousness, or it may vote to convict of a lesser-included offense. An affirmative vote of two-thirds of the members is required to determine a sentence, except that a sentence of death requires a unanimous, affirmative vote of all of the members. Votes on findings and sentences shall be taken by secret, written ballot.

(g) *Sentence.* Upon conviction of an Accused, the Commission shall impose a sentence that is appropriate to the offense or offenses for which there was a finding of Guilty, which sentence may include death, imprisonment for life or for any lesser term, payment of a fine or restitution, or such other lawful punishment or condition of punishment as the Commission shall determine to be proper. Only a Commission of seven members may sentence an Accused to death. A Commission may (subject to rights of third parties) order confiscation of any property of a convicted Accused, deprive that Accused of any stolen property, or order the delivery of such property to the United States for disposition.

(h) *Post-trial procedures*—(1) *Record of Trial.* Each Commission shall make a verbatim transcript of its proceedings, apart from all Commission deliberations, and preserve all evidence admitted in the trial (including any sentencing proceedings) of each case brought before it, which shall constitute the record of trial. The court reporter shall prepare the official record of trial and submit it to the Presiding Officer for authentication upon completion. The Presiding Officer shall transmit the authenticated record of trial to the Appointing Authority. If the Secretary of Defense is serving as the Appointing Authority, the record shall be transmitted to the Review Panel constituted under paragraph (h)(4) of this section.

(2) *Finality of findings and sentence.* A Commission finding as to a charge and any sentence of a Commission becomes final when the President or, if designated by the President, the Secretary of Defense makes a final decision thereon pursuant to section 4(c)(8) of the President's Military Order and in accordance with paragraph (h)(6) of this section. An authenticated finding of Not Guilty as to a charge shall not be changed to a finding of Guilty. Any sentence made final by action of the President or the Secretary of Defense shall be carried out promptly. Adjudged confinement shall begin immediately following the trial.

(3) *Review by the Appointing Authority.* If the Secretary of Defense is not the Appointing Authority, the Appointing Authority shall promptly perform an administrative review of the record of trial. If satisfied that the proceedings of the Commission were administratively complete, the Appointing Authority shall transmit the record of trial to the Review Panel constituted under paragraph (h)(4) of this section. If not so satisfied, the Appointing Authority shall return the case for any necessary supplementary proceedings.

(4) *Review Panel.* The Secretary of Defense shall designate a Review Panel consisting of three Military Officers, which may include civilians commissioned pursuant to section 603 of title 10, United States Code. At least one member of each Review Panel shall have experience as a judge. The Review Panel shall review the record of trial and, in its discretion, any written submissions from the Prosecution and the Defense and shall deliberate in closed conference. The Review Panel shall disregard any variance from procedures specified in this part or elsewhere that would not materially have affected the outcome of the trial before the Commission. Within thirty days after receipt of the record of trial, the Review Panel shall either:

(i) Forward the case to the Secretary of Defense with a recommendation as to disposition, or

(ii) Return the case to the Appointing Authority for further proceedings, provided that a majority of the Review Panel has formed a definite and firm conviction that a material error of law occurred.

(5) *Review by the Secretary of Defense.* The Secretary of Defense shall review the record of trial and the recommendation of the Review Panel and either return the case for further proceedings or, unless making the final decision pursuant to a Presidential designation under section 4(c)(8) of the President's Military Order, forward it to the President with a recommendation as to disposition.

(6) *Final decision.* After review by the Secretary of Defense, the record of trial and all recommendations will be forwarded to the President for review and final decision (unless the President has designated the Secretary of Defense to perform this function). If the President has so designated the Secretary of Defense, the Secretary may approve or disapprove findings or change a finding of Guilty to a finding of Guilty to a lesser-included offense, or mitigate, commute, defer, or suspend the sentence imposed or any portion thereof. If the Secretary of Defense is authorized to render the final decision, the review of the Secretary of Defense under paragraph (h)(5) of this section shall constitute the final decision.

§ 9.7 Regulations.

(a) *Supplementary regulations and instructions.* The Appointing Authority shall, subject to approval of the General Counsel of the Department of Defense if the Appointing Authority is not the Secretary of Defense, publish such further regulations consistent with the President's Military Order and this part as are necessary or appropriate for the conduct of proceedings by Commissions under the President's Military Order. The General Counsel shall issue such instructions consistent with the President's Military Order and this part as the General Counsel deems necessary to facilitate the conduct of proceedings by such Commissions, including those governing the establishment of Commission-related offices and performance evaluation and reporting relationships.

(b) *Construction.* In the event of any inconsistency between the President's Military Order and this part, including any supplementary regulations or instructions issued under paragraph (a) of this section, the provisions of the President's Military Order shall govern. In the event of any inconsistency between this part and any regulations or instructions issued under paragraph (a) of this section, the provisions of this part shall govern.

§ 9.8 Authority.

Nothing in this part shall be construed to limit in any way the authority of the President as Commander in Chief of the Armed Forces or the power of the President to grant reprieves and pardons. Nothing in this part shall affect the authority to constitute military commissions for a purpose not governed by the President's Military Order.

§ 9.9 Protection of State secrets.

Nothing in this part shall be construed to authorize disclosure of state secrets to any person not authorized to receive them.

§ 9.10 Other.

This part is not intended to and does not create any right, benefit, or privilege, substantive or procedural, enforceable by any party, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person. No provision in this part shall be construed to be a requirement of the United States Constitution. Section and subsection captions in this document are for convenience only and shall not be used in construing the requirements of this part. Failure to meet a time period specified in this part, or supplementary regulations or instructions issued under § 9.7(a), shall not create a right to relief for the Accused or any other person. DoD Directive 5025.1 [2] shall not apply to this part or any supplementary regulations or instructions issued under § 9.7(a).

§ 9.11 Amendment.

The Secretary of Defense may amend this part from time to time.

§ 9.12 Delegation.

The authority of the Secretary of Defense to make requests for assistance under section 5 of the President's Military Order is delegated to the General Counsel of the Department of Defense. The Executive Secretary of the Department of Defense shall provide such assistance to the General Counsel as the General Counsel determines necessary for this purpose.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16377 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

[2] Available from *www.ditc.mil/whs/directives.*

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 10

Military Commission Instructions

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes policies for the issuance and interpretation of Military Commission Instructions promulgated pursuant to regulations on Procedures for Trials by Military Commission of Certain Non-United States Citizens in the War Against Terrorism, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rulemaking, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec.1, Pub. L. 89–544)

It has been certified that 32 CFR part 10 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 10 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under section 3, para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 10 does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 10 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 10 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the national government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 10

Military law.

■ Accordingly, 32 CFR part 10 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 10—MILITARY COMMISION INSTRUCTIONS

Sec.
10.1 Purpose.
10.2 Authority.
10.3 Applicability.
10.4 Policies and procedures.
10.5 Construction.
10.6 Non-creation of right.
10.7 Reservation of authority.
10.8 Amendment.

Authority: 10 U.S.C. 113Id) and 140(b).

§ 10.1 Purpose.

This part establishes policies for the issuance and interpretation of Military Commission Instructions promulgated pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR, 2001 comp., p. 918, 66 FR 57833).

§ 10.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with 10 U.S.C. 113(d) and 140(b).

§ 10.3 Applicability.

This part, and, unless stated otherwise, all other Military Commission Instructions apply throughout the Department of Defense, including to the Office of the Secretary of Defense, the Military Departments, the Chairman and Vice Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the Department of Defense Field Activities, and all other organizational entities within the Department of Defense, to any special trial counsel of the Department of Justice who may be made available by the Attorney General of the United States to serve as a prosecutor in trials before military commissions pursuant to 32 CFR 9.4(b)(2), to any civilian attorney who seeks qualification as a member of the pool of qualified Civilian Defense Counsel authorized in 32 CFR 9.4(c)(3)(ii), and to any attorney who has been qualified as a member of that pool.

§ 10.4 Policies and procedures.

(a) *Promulgation.* Military Commission Instructions will be issued by the General Counsel of the Department of Defense (hereinafter General Counsel). Each Instruction will issue over the signature of the General Counsel and, unless otherwise specified therein, shall take effect upon the signature of the General Counsel. Instructions will be numbered in sequence.

(b) *Professional responsibility.* Compliance with these Instructions shall be deemed a professional responsibility obligation for the practice of law within the Department of Defense.

(c) *Compliance breaches.* Failure to adhere to these Instructions or any other failure to comply with any rule, regulation, or Instruction applicable to trials by military commission convened pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' may be subject to appropriate action by the Appointing Authority, the General Counsel of the Department of Defense, or the Presiding Officer of a military commission. Such action may include permanently barring an individual from participating in any military commission proceeding convened pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' punitive measures imposed under 10 U.S.C. 898, and any other lawful sanction.

§ 10.5 Construction.

Military Commission Instructions shall be construed in a manner consistent with 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.'' Nothing in these Military Commission Instructions applies with respect to the trial of crimes by military commissions convened under other authority. In the event of an inconsistency, the provisions of 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' shall govern as provided in Section 7(B) of Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.'' Pronouns referring to the male gender shall be construed as applying to both male and female.

§ 10.6 Non-creation of right.

Neither this part nor any Military Commission Instruction issued hereafter, is intended to and does not create any right, benefit, privilege, substantive or procedural, enforceable by any party, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person. Alleged noncompliance with an Instruction does not, of itself, constitute error, give rise to judicial review, or establish a right to relief for the Accused or any other person.

§ 10.7 Reservation of authority.

Neither this part nor any Military Commission Instruction issued hereafter shall be construed to limit, impair, or otherwise affect any authority granted by the Constitution or laws of the United States or Department of Defense regulation or directive.

§ 10.8 Amendment.

The General Counsel may issue, supplement, amend, or revoke any Military Commission Instruction at any time.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16378 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 11

Crimes and Elements of Trials by Military Commission

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule provides guidance with respect to crimes that may be tried by military commissions established pursuant to regulations on, Procedures for Trials by Military Commission of Certain Non-United States Citizens in the War Against Terrorism, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and enumerates the elements of those crimes.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rulemaking, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89–544)

It has been certified that 32 CFR part 11 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 11 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under section 3, para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 11 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 11 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 11 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the national government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 11

Military law.

■ Accordingly, 32 CFR part 11 is added to subtitle A, chapter I, subchapter B to read as follows:

PART 11—CRIMES AND ELEMENTS FOR TRIALS BY MILITARY COMMISSION

Sec.

11.1 Purpose.
11.2 Authority.
11.3 General.
11.4 Applicable principles of law.
11.5 Definitions.
11.6 Crimes and elements.

Authority: 10 U.S.C. 821.

§ 11.1 Purpose.

This part provides guidance with respect to crimes that may be tried by military commissions established pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR, 2001 comp., p. 918, 66 FR 57833) and enumerates the elements of those crimes.

§ 11.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (66 FR 57833) and 10 U.S.C. 113(d), 140(b), and 821. The provisions of 32 CFR part 10 are applicable to this part.

§ 11.3 General.

(a) *Background.* The following crimes and elements thereof are intended for use by military commissions established pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' the jurisdiction of which extends to offenses or offenders that by statute or the law of armed conflict may be tried by military commission as limited by Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.'' No offense is cognizable in a trial by military commission if that offense did not exist prior to the conduct in question. These crimes and elements derive from the law of armed conflict, a body of law that is sometimes referred to as the law of war. They constitute violations of the law of armed conflict or offenses that, consistent with that body of law, are triable by military commission. Because this document is declarative of existing law, it does not preclude trial for crimes that occurred prior to its effective date.

(b) *Effect of other laws.* No conclusion regarding the applicability or persuasive authority of other bodies of law should be drawn solely from the presence, absence, or similarity of particular language in this part as compared to other articulations of law.

(c) *Non-exclusivity.* This part does not contain a comprehensive list of crimes triable by military commission. It is intended to be illustrative of applicable principles of the common law of war but not to provide an exclusive enumeration of the punishable acts recognized as such by that law. The absence of a particular offense from the corpus of those enumerated herein does not preclude trial for that offense.

§ 11.4. Applicable principles of law.

(a) *General intent.* All actions taken by the Accused that are necessary for completion of a crime must be performed with general intent. This intent is not listed as a separate element. When the mens rea required for culpability to attach involves an intent that a particular consequence occur, or some other specific intent, an intent element is included. The necessary relationship between such intent element and the conduct constituting the actus reus is not articulated for each

set of elements, but is presumed; a nexus between the two is necessary.

(b) *The element of wrongfulness and defenses.* Conduct must be wrongful to constitute one of the offenses enumerated herein or any other offense triable by military commission. Conduct is wrongful if it is done without justification or excuse cognizable under applicable law. The element of wrongfulness (or the absence of lawful justification or excuse), which may be required under the customary law of armed conflict, is not repeated in the elements of crimes in § 11.6. Conduct satisfying the elements found herein shall be inferred to be wrongful in the absence of evidence to the contrary. Similarly, this part does not enunciate defenses that may apply for specific offenses, though an Accused is entitled to raise any defense available under the law of armed conflict. Defenses potentially available to an Accused under the law of armed conflict, such as self-defense, mistake of fact, and duress, may be applicable to certain offenses subject to trial by military commission. In the absence of evidence to the contrary, defenses in individual cases shall be presumed not to apply. The burden of going forward with evidence of lawful justification or excuse or any applicable defense shall be upon the Accused. With respect to the issue of combatant immunity raised by the specific enumeration of an element requiring the absence thereof, the prosecution must affirmatively prove that element regardless of whether the issue is raised by the defense. Once an applicable defense or an issue of lawful justification or lawful excuse is fairly raised by the evidence presented, except for the defense of lack of mental responsibility, the burden is on the prosecution to establish beyond a reasonable doubt that the conduct was wrongful or that the defense does not apply. With respect to the defense of lack of mental responsibility, the Accused has the burden of proving by clear and convincing evidence that, as a result of a severe mental disease or defect, the Accused was unable to appreciate the nature and quality of the wrongfulness of the Accused's acts. As provided in 32 CFR 9.5(c), the prosecution bears the burden of establishing the Accused's guilt beyond a reasonable doubt in all cases tried by a military commission. Each element of an offense enumerated herein must be proven beyond a reasonable doubt.

(c) *Statute of limitations.* Violations of the laws of war listed herein are not subject to any statute of limitations.

§ 11.5. Definitions.

(a) *Combatant immunity.* Under the law of armed conflict, only a lawful combatant enjoys ''combatant immunity'' or ''belligerent privilege'' for the lawful conduct of hostilities during armed conflict.

(b) *Enemy.* ''Enemy'' includes any entity with which the United States or allied forces may be engaged in armed conflict, or which is preparing to attack the United States. It is not limited to foreign nations, or foreign military organizations or members thereof. ''Enemy'' specifically includes any organization of terrorists with international reach.

(c) *In the context of and was associated with armed conflict.* Elements containing this language require a nexus between the conduct and armed hostilities. Such nexus could involve, but is not limited to, time, location, or purpose of the conduct in relation to the armed hostilities. The existence of such factors, however, may not satisfy the necessary nexus (*e.g.*, murder committed between members of the same armed force for reasons of personal gain unrelated to the conflict, even if temporally and geographically associated with armed conflict, is not ''in the context of'' the armed conflict). The focus of this element is not the nature or characterization of the conflict, but the nexus to it. This element does not require a declaration of war, ongoing mutual hostilities, or confrontation involving a regular national armed force. A single hostile act or attempted act may provide sufficient basis for the nexus so long as its magnitude or severity rises to the level of an ''armed attack'' or an ''act of war,'' or the number, power, stated intent or organization of the force with which the actor is associated is such that the act or attempted act is tantamount to an attack by an armed force. Similarly, conduct undertaken or organized with knowledge or intent that it initiate or contribute to such hostile act or hostilities would satisfy the nexus requirement.

(d) *Military Objective.* ''Military objectives'' are those potential targets during an armed conflict which, by their nature, location, purpose, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability and whose total or partial destruction, capture, or neutralization would constitute a military advantage to the attacker under the circumstances at the time of the attack.

(e) *Object of the attack.* ''Object of the attack'' refers to the person, place, or thing intentionally targeted. In this regard, the term includes neither collateral damage nor incidental injury or death.

(f) *Protected property.* ''Protected property'' refers to property specifically protected by the law of armed conflict such as buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected, provided they are not being used for military purposes or are not otherwise military objectives. Such property would include objects properly identified by one of the distinctive emblems of the Geneva Conventions but does not include all civilian property.

(g) *Protected under the law of war.* The person or object in question is expressly ''protected'' under one or more of the Geneva Conventions of 1949 or, to the extent applicable, customary international law. The term does not refer to all who enjoy some form of protection as a consequence of compliance with international law, but those who are expressly designated as such by the applicable law of armed conflict. For example, persons who either are *hors de combat* or medical or religious personnel taking no active part in hostilities are expressly protected, but other civilians may not be.

(h) *Should have known.* The facts and circumstances were such that a reasonable person in the Accused's position would have had the relevant knowledge or awareness.

§ 11.6. Crimes and elements.

(a) *Substantive offenses—war crimes.* The following enumerated offenses, if applicable, should be charged in separate counts. Elements are drafted to reflect conduct of the perpetrator. Each element need not be specifically charged.

(1) *Willful killing of protected persons*—(i) *Elements.* (A) The accused killed one or more persons;

(B) The accused intended to kill such person or persons;

(C) Such person or persons were protected under the law of war;

(D) The accused knew or should have known of the factual circumstances that established that protected status; and

(E) The killing took place in the context of and was associated with armed conflict.

(ii) *Comments.* The intent required for this offense precludes its applicability with regard to collateral damage or injury incident to a lawful attack.

(2) *Attacking civilians.*—(i) *Elements.* (A) The accused engaged in an attack;

(B) The object of the attack was a civilian population as such or

individual civilians not taking direct or active part in hostilities;

(C) The accused intended the civilian population as such or individual civilians not taking direct or active part in hostilities to be an object of the attack; and

(D) The attack took place in the context of and was associated with armed conflict.

(ii) *Comments.* The intent required for this offense precludes its applicability with regard to collateral damage or injury incident to a lawful attack.

(3) *Attacking civilian objects.*—(i) *Elements.* (A) The accused engaged in an attack;

(B) The object of the attack was civilian property, that is, property that was not a military objective;

(C) The accused intended such property to be an object of the attack;

(D) The accused knew or should have known that such property was not a military objective; and

(E) The attack took place in the context of and was associated with armed conflict.

(ii) *Comments.* The intent required for this offense precludes its applicability with regard to collateral damage or injury incident to a lawful attack.

(4) *Attacking Protected Property*—(i) *Elements.* (A) The accused engaged in an attack;

(B) The object of the attack was protected property;

(C) The accused intended such property to be an object of the attack;

(D) The accused knew or should have known of the factual circumstances that established that protected status; and

(E) The attack took place in the context of and was associated with armed conflict.

(ii) *Comments.* The intent required for this offense precludes its applicability with regard to collateral damage or injury incident to a lawful attack.

(5) *Pillaging*—(i) *Elements.* (A) The accused appropriated or seized certain property;

(B) The accused intended to appropriate or seize such property for private or personal use;

(C) The appropriation or seizure was without the consent of the owner of the property or other person with authority to permit such appropriation or seizure; and

(D) The appropriation or seizure took place in the context of and was associated with armed conflict.

(ii) *Comments.* As indicated by the use of the term ''private or personal use,'' legitimate captures or appropriations, or seizures justified by military necessity, cannot constitute the crime of pillaging.

(6) *Denying quarter*—(i) *Elements.* (A) The accused declared, ordered, or otherwise indicated that there shall be no survivors or surrender accepted;

(B) The accused thereby intended to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted;

(C) It was foreseeable that circumstances would be such that a practicable and reasonable ability to accept surrender would exist;

(D) The accused was in a position of effective command or control over the subordinate forces to which the declaration or order was directed; and

(E) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* Paragraph (a)(6)(i)(C) of this section precludes this offense from being interpreted as limiting the application of lawful means or methods of warfare against enemy combatants. For example, a remotely delivered attack cannot give rise to this offense.

(7) *Taking Hostages*—(i) *Elements.* (A) The accused seized, detained, or otherwise held hostage one or more persons;

(B) The accused threatened to kill, injure, or continue to detain such person or persons;

(C) The accused intended to compel a State, an international organization, a natural or legal person, or a group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons; and

(D) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* Consistent with § 11.4(b), this offense cannot be committed by lawfully detaining enemy combatants or other individuals as authorized by the law of armed conflict.

(8) *Employing poison or analogous weapons*—(i) *Elements.* (A) The accused employed a substance or a weapon that releases a substance as a result of its employment;

(B) The substance was such that exposure thereto causes death or serious damage to health in the ordinary course of events, through its asphyxiating, poisonous, or bacteriological properties;

(C) The accused employed the substance or weapon with the intent of utilizing such asphyxiating, poisonous, or bacteriological properties as a method of warfare;

(D) The accused knew or should have known of the nature of the substance or weapon; and

(E) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) The ''death or serious damage to health'' required by paragraph (a)(8)(i)(B) of this section must be a direct result of the substance's effect or effects on the human body (*e.g.*, asphyxiation caused by the depletion of atmospheric oxygen secondary to a chemical or other reaction would not give rise to this offense).

(B) The clause ''serious damage to health'' does not include temporary incapacitation or sensory irritation.

(C) The use of the ''substance or weapon'' at issue must be proscribed under the law of armed conflict. It may include chemical or biological agents.

(D) The specific intent element for this offense precludes liability for mere knowledge of potential collateral consequences (*e.g.*, mere knowledge of a secondary asphyxiating or toxic effect would be insufficient to complete the offense).

(9) *Using protected persons as shields*—(i) *Elements.* (A) The accused positioned, or took advantage of the location of, one or more civilians or persons protected under the law of war;

(B) The accused intended to use the civilian or protected nature of the person or persons to shield a military objective from attack or to shield, favor, or impede military operations; and

(C) The conduct took place in the context of and was associated with armed conflict.

(ii) [Reserved]

(10) *Using protected property as shields*—(i) *Elements.* (A) The accused positioned, or took advantage of the location of, civilian property or property protected under the law of war;

(B) The accused intended to shield a military objective from attack or to shield, favor, or impede military operations; and

(C) The conduct took place in the context of and was associated with armed conflict.

(ii) [Reserved]

(11) *Torture*—(i) *Elements.* (A) The accused inflicted severe physical or mental pain or suffering upon one or more persons;

(B) The accused intended to inflict such severe physical or mental pain or suffering;

(C) Such person or persons were in the custody or under the control of the accused; and

(D) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) Consistent with § 11.4(b), this offense does not include pain or suffering arising only from, inherent in, or incidental to, lawfully imposed punishments. This offense does not include the incidental

infliction of pain or suffering associated with the legitimate conduct of hostilities.

(B) Severe ''mental pain or suffering'' is the prolonged mental harm caused by or resulting from:

(*1*) The intentional infliction or threatened infliction of severe physical pain or suffering;

(*2*) The administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(*3*) The threat of imminent death; or

(*4*) The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(C) ''Prolonged mental harm'' is a harm of some sustained duration, though not necessarily permanent in nature, such as a clinically identifiable mental disorder.

(D) Paragraph (a)(11)(i)(C) of this section does not require a particular formal relationship between the accused and the victim. Rather, it precludes prosecution for pain or suffering consequent to a lawful military attack.

(12) *Causing serious injury*—(i) *Elements.* (A) The accused caused serious injury to the body or health of one or more persons;

(B) The accused intended to inflict such serious injury;

(C) Such person or persons were in the custody or under the control of the accused; and

(D) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* ''Serious injury'' includes fractured or dislocated bones, deep cuts, torn members of the body, and serious damage to internal organs.

(13) *Mutilation or maiming*—(i) *Elements.* (A) The accused subjected one or more persons to mutilation, in particular by permanently disfiguring the person or persons, or by permanently disabling or removing an organ or appendage;

(B) The accused intended to subject such person or persons to such mutilation;

(C) The conduct caused death or seriously damaged or endangered the physical or mental health or appearance of such person or persons.

(D) The conduct was neither justified by the medical treatment of the person or persons concerned nor carried out in the interest of such person or persons;

(E) Such person or persons were in the custody or control of the accused; and

(F) The conduct took place in the context of and was associated with armed conflict.

(ii) [Reserved]

(14) *Use of treachery or perfidy*—(i) *Elements.* (A) The accused invited the confidence or belief of one or more persons that they were entitled to, or were obliged to accord, protection under the law of war;

(B) The accused intended to betray that confidence or belief;

(C) The accused killed, injured, or captured one or more persons;

(D) The accused made use of that confidence or belief in killing, injuring, or capturing such person or persons; and

(E) The conduct took place in the context of and was associated with armed conflict.

(ii) [Reserved]

(15) *Improper use of flag of truce*—(i) *Elements.* (A) The accused used a flag of truce;

(B) The accused made such use in order to feign an intention to negotiate, surrender, or otherwise to suspend hostilities when there was no such intention on the part of the accused; and

(C) The conduct took place in the context of and was associated with armed conflict.

(ii) [Reserved]

(16) *Improper use of protective emblems*—(i) *Elements.* (A) The accused used a protective emblem recognized by the law of armed conflict;

(B) The accused undertook such use for combatant purposes in a manner prohibited by the law of armed conflict;

(C) The accused knew or should have known of the prohibited nature of such use; and

(D) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* ''Combatant purposes,'' as used in paragraph (a)(16)(i)(B) of this section, means purposes directly related to hostilities and does not include medical, religious, or similar activities.

(17) *Degrading treatment of a dead body.*—(i) *Elements.* (A) The accused degraded or otherwise violated the dignity of the body of a dead person;

(B) The accused intended to degrade or otherwise violate the dignity of such body;

(C) The severity of the degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity; and

(D) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* Paragraph (a)(17)(i)(B) of this section precludes prosecution for actions justified by military necessity.

(18) *Rape*—(i) *Elements.* (A) The accused invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the accused with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body;

(B) The invasion was committed by force, threat of force or coercion, or was committed against a person incapable of giving consent; and

(C) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) Paragraph (a)(18)(i)(B) of this section recognizes that consensual conduct does not give rise to this offense.

(B) It is understood that a person may be incapable of giving consent if affected by natural, induced, or age-related incapacity.

(C) The concept of ''invasion'' is linked to the inherent wrongfulness requirement for all offenses. In this case, for example, a legitimate body cavity search could not give rise to this offense.

(D) The concept of ''invasion'' is gender neutral.

(b) *Substantive offenses—other offenses triable by military commission.* The following enumerated offenses, if applicable, should be charged in separate counts. Elements are drafted to reflect conduct of the perpetrator. Each element need not be specifically charged.

(1) *Hijacking or hazarding a vessel or aircraft*—(i) *Elements.* (A) The accused seized, exercised control over, or endangered the safe navigation of a vessel or aircraft;

(B) The accused intended to so seize, exercise control over, or endanger such vessel or aircraft; and

(C) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* A seizure, exercise of control, or endangerment required by military necessity, or against a lawful military objective undertaken by military forces of a State in the exercise of their official duties, would not satisfy the wrongfulness requirement for this crime.

(2) *Terrorism*—(i) *Elements.* (A) The accused killed or inflicted bodily harm on one or more persons or destroyed property;

(B) The accused:

(*1*) Intended to kill or inflict bodily harm on one or more persons; or

(*2*) Intentionally engaged in an act that is inherently dangerous to another

and evinces a wanton disregard of human life;

(C) The killing, harm or destruction was intended to intimidate or coerce a civilian population, or to influence the policy of a government by intimidation or coercion; and

(D) The killing, harm or destruction took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) Paragraph (b)(2)(i)(A) of this section includes the concept of causing death or bodily harm, even if indirectly.

(B) The requirement that the conduct be wrongful for this crime necessitates that the conduct establishing this offense not constitute an attack against a lawful military objective undertaken by military forces of a State in the exercise of their official duties.

(3) *Murder by an unprivileged belligerent*—(i) *Elements.* (A) The accused killed one or more persons;

(B) The accused:

(*1*) Intended to kill or inflict great bodily harm on such person or persons; or

(*2*) Intentionally engaged in an act that is inherently dangerous to another and evinces a wanton disregard of human life;

(C) The accused did not enjoy combatant immunity; and

(D) The killing took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) The term ''kill'' includes intentionally causing death, whether directly or indirectly.

(B) Unlike the crimes of willful killing or attacking civilians, in which the victim's status is a prerequisite to criminality, for this offense the victim's status is immaterial. Even an attack on a soldier would be a crime if the attacker did not enjoy ''belligerent privilege'' or ''combatant immunity.''

(4) *Destruction of property by an unprivileged belligerent*—(i) *Elements.* (A) The accused destroyed property;

(B) The property belonged to another person, and the destruction was without that person's consent;

(C) The accused intended to destroy such property;

(D) The accused did not enjoy combatant immunity; and

(E) The destruction took place in the context of and was associated with armed conflict.

(ii) [Reserved]

(5) *Aiding the enemy*—(i) *Elements.* (A) The accused aided the enemy;

(B) The accused intended to aid the enemy; and

(C) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) Means of accomplishing paragraph (b)(5)(i)(A) of this section include, but are not limited to: providing arms, ammunition, supplies, money, other items or services to the enemy; harboring or protecting the enemy; or giving intelligence or other information to the enemy.

(B) The requirement that conduct be wrongful for this crime necessitates that the accused act without proper authority. For example, furnishing enemy combatants detained during hostilities with subsistence or quarters in accordance with applicable orders or policy is not aiding the enemy.

(C) The requirement that conduct be wrongful for this crime may necessitate that, in the case of a lawful belligerent, the accused owe allegiance or some duty to the United States of America or to an ally or coalition partner. For example, citizenship, resident alien status, or a contractual relationship in or with the United States or an ally or coalition partner is sufficient to satisfy this requirement so long as the relationship existed at a time relevant to the offense alleged.

(6) *Spying*—(i) *Elements.* (A) The accused collected or attempted to collect certain information;

(B) The accused intended to convey such information to the enemy;

(C) The accused, in collecting or attempting to collect the information, was lurking or acting clandestinely, while acting under false pretenses; and

(D) The conduct took place in the context of and was associated with armed conflict.

(ii) *Comments.* (A) Members of a military organization not wearing a disguise and others who carry out their missions openly are not spies, if, though they may have resorted to concealment, they have not acted under false pretenses.

(B) Related to the requirement that conduct be wrongful or without justification or excuse in this case is the fact that, consistent with the law of war, a lawful combatant who, after rejoining the armed force to which that combatant belongs, is subsequently captured, can not be punished for previous acts of espionage. His successful rejoining of his armed force constitutes a defense.

(7) *Perjury or false testimony*—(i) *Elements.*

(A) The accused testified at a military commission, in proceedings ancillary to a military commission, or provided information in a writing executed under an oath to tell the truth or a declaration acknowledging the applicability of penalties of perjury in connection with such proceedings;

(B) Such testimony or information was material;

(C) Such testimony or information was false; and

(D) The accused knew such testimony or information to be false.

(ii) [Reserved]

(8) *Obstruction of justice related to military commissions*—(i) *Elements.* (A) The accused did an act;

(B) The accused intended to influence, impede, or otherwise obstruct the due administration of justice; and

(C) The accused did such act in the case of a certain person against whom the accused had reason to believe:

(*1*) There were or would be proceedings before a military commission; or

(*2*) There was an ongoing investigation of offenses triable by military commission.

(ii) [Reserved]

(c) *Other forms of liability and related offenses.* A person is criminally liable as a principal for a completed substantive offense if that person commits the offense (perpetrator), aids or abets the commission of the offense, solicits commission of the offense, or is otherwise responsible due to command responsibility. Such a person would be charged as a principal even if another individual more directly perpetrated the offense. In proving culpability, however, the below listed definitions and elements are applicable. Additionally, if a substantive offense was completed, a person may be criminally liable for the separate offense of accessory after the fact. If the substantive offense was not completed, a person may be criminally liable of the lesser-included offense of attempt or the separate offense of solicitation. Finally, regardless of whether the substantive offense was completed, a person may be criminally liable of the separate offense of conspiracy in addition to the substantive offense. Each element need not be specifically charged.

(1) *Aiding or abetting*—(i) *Elements.* (A) The accused committed an act that aided or abetted another person or entity in the commission of a substantive offense triable by military commission;

(B) Such other person or entity committed or attempted to commit the substantive offense; and

(C) The accused intended to or knew that the act would aid or abet such other person or entity in the commission of the substantive offense or an associated criminal purpose or enterprise.

(ii) *Comments.* (A) The term ''aided or abetted'' in paragraph (c)(1)(i)(A) of this section includes: assisting, encouraging, advising, instigating, counseling,

ordering, or procuring another to commit a substantive offense; assisting, encouraging, advising, counseling, or ordering another in the commission of a substantive offense; and in any other way facilitating the commission of a substantive offense.

(B) In some circumstances, inaction may render one liable as an aider or abettor. If a person has a legal duty to prevent or thwart the commission of a substantive offense, but does not do so, that person may be considered to have aided or abetted the commission of the offense if such noninterference is intended to and does operate as an aid or encouragement to the actual perpetrator.

(C) An accused charged with aiding or abetting should be charged with the related substantive offense as a principal.

(2) *Solicitation*—(i) *Elements.* (A) The accused solicited, ordered, induced, or advised a certain person or persons to commit one or more substantive offenses triable by military commission; and

(B) The accused intended that the offense actually be committed.

(ii) *Comments.* (A) The offense is complete when a solicitation is made or advice is given with the specific wrongful intent to induce a person or persons to commit any offense triable by military commission. It is not necessary that the person or persons solicited, ordered, induced, advised, or assisted agree to or act upon the solicitation or advice. If the offense solicited is actually committed, however, the accused is liable under the law of armed conflict for the substantive offense. An accused should not be convicted of both solicitation and the substantive offense solicited if criminal liability for the substantive offense is based upon the solicitation.

(B) Solicitation may be by means other than speech or writing. Any act or conduct that reasonably may be construed as a serious request, order, inducement, advice, or offer of assistance to commit any offense triable by military commission may constitute solicitation. It is not necessary that the accused act alone in the solicitation, order, inducement, advising, or assistance. The accused may act through other persons in committing this offense.

(C) An accused charged with solicitation of a completed substantive offense should be charged for the substantive offense as a principal. An accused charged with solicitation of an uncompleted offense should be charged for the separate offense of solicitation. Solicitation is not a lesser-included offense of the related substantive offense.

(3) *Command/superior responsibility—perpetrating*—(i) *Elements.* (A) The accused had command and control, or effective authority and control, over one or more subordinates;

(B) One or more of the accused's subordinates committed, attempted to commit, conspired to commit, solicited to commit, or aided or abetted the commission of one or more substantive offenses triable by military commission;

(C) The accused either knew or should have known that the subordinate or subordinates were committing, attempting to commit, conspiring to commit, soliciting, or aiding or abetting such offense or offenses; and

(D) The accused failed to take all necessary and reasonable measures within his power to prevent or repress the commission of the offense or offenses.

(ii) *Comments.*

(A) The phrase ''effective authority and control'' in paragraph (c)(3)(i)(A) of this section includes the concept of relative authority over the subject matter or activities associated with the perpetrator's conduct. This may be relevant to a civilian superior who should not be held responsible for the behavior of subordinates involved in activities that have no relationship to such superior's sphere of authority. Subject matter authority need not be demonstrated for command responsibility as it applies to a military commander.

(B) A commander or other military or civilian superior, not in command, charged with failing adequately to prevent or repress a substantive offense triable by military commission should be charged for the related substantive offense as a principal.

(4) *Command/superior responsibility—misprision*—(i) *Elements.* (A) The accused had command and control, or effective authority and control, over one or more subordinates;

(B) One or more of the accused's subordinates had committed, attempted to commit, conspired to commit, solicited to commit, or aided or abetted the commission of one or more substantive offenses triable by military commission;

(C) The accused knew or should have known that the subordinate or subordinates had committed, attempted to commit, conspired to commit, solicited, or aided or abetted such offense or offenses; and

(D) The accused failed to submit the matter to competent authorities for investigation or prosecution as appropriate.

(ii) *Comments.*

(A) The phrase, ''effective authority and control'' in paragraph (c)(4)(i)(A) of this section includes the concept of relative authority over the subject matter or activities associated with the perpetrator's conduct. This may be relevant to a civilian superior who cannot be held responsible under this offense for the behavior of subordinates involved in activities that have nothing to do with such superior's sphere of authority.

(B) A commander or superior charged with failing to take appropriate punitive or investigative action subsequent to the perpetration of a substantive offense triable by military commission should not be charged for the substantive offense as a principal. Such commander or superior should be charged for the separate offense of failing to submit the matter for investigation and/or prosecution as detailed in these elements. This offense is not a lesser-included offense of the related substantive offense.

(5) *Accessory after the fact*—(i) *Elements.* (A) The accused received, comforted, or assisted a certain person;

(B) Such person had committed an offense triable by military commission;

(C) The accused knew that such person had committed such offense or believed such person had committed a similar or closely related offense; and

(D) The accused intended to hinder or prevent the apprehension, trial, or punishment of such person.

(ii) *Comments.* Accessory after the fact should be charged separately from the related substantive offense. It is not a lesser-included offense of the related substantive offense.

(6) *Conspiracy*—(i) *Elements.* (A) The accused entered into an agreement with one or more persons to commit one or more substantive offenses triable by military commission or otherwise joined an enterprise of persons who shared a common criminal purpose that involved, at least in part, the commission or intended commission of one or more substantive offenses triable by military commission;

(B) The accused knew the unlawful purpose of the agreement or the common criminal purpose of the enterprise and joined in it willfully, that is, with the intent to further the unlawful purpose; and

(C) One of the conspirators or enterprise members, during the existence of the agreement or enterprise, knowingly committed an overt act in order to accomplish some objective or purpose of the agreement or enterprise.

(ii) *Comments.* (A) Two or more persons are required in order to have a conspiracy. Knowledge of the identity of co-conspirators and their particular connection with the agreement or enterprise need not be established. A person may be guilty of conspiracy although incapable of committing the intended offense. The joining of another conspirator after the conspiracy has been established does not create a new conspiracy or affect the status of the other conspirators. The agreement or common criminal purpose in a conspiracy need not be in any particular form or manifested in any formal words.

(B) The agreement or enterprise must, at least in part, involve the commission or intended commission of one or more substantive offenses triable by military commission. A single conspiracy may embrace multiple criminal objectives. The agreement need not include knowledge that any relevant offense is in fact ''triable by military commission.''

(C) The overt act must be done by one or more of the conspirators, but not necessarily the accused, and it must be done to effectuate the object of the conspiracy or in furtherance of the common criminal purpose. The accused need not have entered the agreement or criminal enterprise at the time of the overt act.

(D) The overt act need not be in itself criminal, but it must advance the purpose of the conspiracy. It is not essential that any substantive offense be committed.

(E) Each conspirator is liable for all offenses committed pursuant to or in furtherance of the conspiracy by any of the co-conspirators, after such conspirator has joined the conspiracy and while the conspiracy continues and such conspirator remains a party to it.

(F) A party to the conspiracy who withdraws from or abandons the agreement or enterprise before the commission of an overt act by any conspirator is not guilty of conspiracy. An effective withdrawal or abandonment must consist of affirmative conduct that is wholly inconsistent with adherence to the unlawful agreement or common criminal purpose and that shows that the party has severed all connection with the conspiracy. A conspirator who effectively withdraws from or abandons the conspiracy after the performance of an overt act by one of the conspirators remains guilty of conspiracy and of any offenses committed pursuant to the conspiracy up to the time of the withdrawal or abandonment. The withdrawal of a conspirator from the conspiracy does not affect the status of the remaining members.

(G) That the object of the conspiracy was impossible to effect is not a defense to this offense.

(H) Conspiracy to commit an offense is a separate and distinct offense from any offense committed pursuant to or in furtherance of the conspiracy, and both the conspiracy and any related offense may be charged, tried, and punished separately. Conspiracy should be charged separately from the related substantive offense. It is not a lesser-included offense of the substantive offense.

(7) *Attempt*—(i) *Elements.* (A) The accused committed an act;

(B) The accused intended to commit one or more substantive offenses triable by military commission;

(C) The act amounted to more than mere preparation; and

(D) The act apparently tended to effect the commission of the intended offense.

(ii) *Comments.* (A) To constitute an attempt there must be a specific intent to commit the offense accompanied by an act that tends to accomplish the unlawful purpose. This intent need not involve knowledge that the offense is in fact ''triable by military commission.''

(B) Preparation consists of devising or arranging means or measures apparently necessary for the commission of the offense. The act need not be the last act essential to the consummation of the offense. The combination of specific intent to commit an offense, plus the commission of an act apparently tending to further its accomplishment, constitutes the offense of attempt. Failure to complete the offense, whatever the cause, is not a defense.

(C) A person who purposely engages in conduct that would constitute the offense if the attendant circumstances were as that person believed them to be is guilty of an attempt.

(D) It is a defense to an attempt offense that the person voluntarily and completely abandoned the intended offense, solely because of the person's own sense that it was wrong, prior to the completion of the substantive offense. The voluntary abandonment defense is not allowed if the abandonment results, in whole or in part, from other reasons, for example, the person feared detection or apprehension, decided to await a better opportunity for success, was unable to complete the crime, or encountered unanticipated difficulties or unexpected resistance.

(E) Attempt is a lesser-included offense of any substantive offense triable by military commission and need not be charged separately. An accused may be charged with attempt without being charged with the substantive offense.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16379 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 12

Responsibilities of the Chief Prosecutor, Prosecutors, and Assistant Prosecutors

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes the responsibilities of the Office of the Chief Prosecutor and components thereof.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rulemaking, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89–544)

It has been certified that 32 CFR part 12 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 12 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 12 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 12 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 12 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 12

Military law.

■ Accordingly, 32 CFR part 12 is added to subtitle A, chapter I, Subchapter B to read as follows:

PART 12—RESPONSIBILITIES OF THE CHIEF PROSECUTOR, PROSECUTORS, AND ASSISTANT PROSECUTORS

Sec.
12.1 Purpose.
12.2 Authority.
12.3 Office of the Chief Prosecutor.
12.4 Duties and responsibilities of the prosecution.
12.5 Policies.

Authority: 10 U.S.C. 113(d) and 140(b).

§ 12.1 Purpose.

This part establishes the responsibilities of the Office of the Chief Prosecutor and components thereof.

§ 12.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR, 2001 comp., p. 918, 66 FR 57833) and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 12.3 Office of the Chief Prosecutor.

(a) *General.* The Office of the Chief Prosecutor shall be a component of the Office of Military Commissions and shall be comprised of the Chief Prosecutor, Prosecutors, and other persons properly under the supervision of the Chief Prosecutor.

(b) *Chief Prosecutor.* (1) The Chief Prosecutor shall be a judge advocate of any United States armed force and shall be designated by the General Counsel of the Department of Defense.

(2) The Chief Prosecutor shall report directly to the Deputy General Counsel (Legal Counsel) of the Department of Defense.

(3) The Chief Prosecutor shall have authority to subpoena any individual to appear as a witness, to testify, or to produce any evidence in a case referred to military commissions or in a criminal investigation associated with a case that may be referred to a military commission.

(4) The Chief Prosecutor shall direct the overall prosecution effort pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' ensuring proper supervision and management of all personnel and resources assigned to the Office of the Chief Prosecutor.

(5) The Chief Prosecutor shall ensure that all personnel assigned to the Office of the Chief Prosecutor review, and attest that they understand and will comply with, 32 CFR part 9, and Military Order of November 13, 2001,'' Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and all Supplementary Regulations and Instructions issued in accordance therewith.

(6) The Chief Prosecutor shall inform the Deputy General Counsel (Legal Counsel) of all requirements for personnel, office space, equipment, and supplies to ensure the successful functioning and mission accomplishment of the Office of the Chief Prosecutor.

(7) The Chief Prosecutor shall supervise all Prosecutors and other personnel assigned to the Office of the Chief Prosecutor including any special trial counsel of the Department of Justice who may be made available by the Attorney General of the United States.

(8) The Chief Prosecutor, or his designee, shall fulfill applicable performance evaluation requirements associated with Prosecutors and other personnel properly under the supervision of the Office of the Chief Prosecutor.

(9) The Chief Prosecutor shall detail a Prosecutor and, as appropriate, one or more Assistant Prosecutors to perform the duties of the prosecution as set forth in 32 CFR 9.4(b)(2). The Chief Prosecutor may detail himself to perform such duties.

(10) The Chief Prosecutor shall ensure that all Prosecutors and Assistant Prosecutors faithfully represent the United States in discharging their prosecutorial duties before military commissions conducted pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.''

(11) The Chief Prosecutor shall ensure that all Prosecutors and Assistant Prosecutors have taken an oath to perform their duties faithfully.

(12) The Chief Prosecutor shall ensure that all personnel properly under the supervision of the Office of the Chief Prosecutor possess the appropriate security clearances.

(c) *Prosecutors.* (1) Prosecutors shall be detailed by the Chief Prosecutor and may be either judge advocates of any United States armed force or special trial counsel of the Department of Justice who may be made available by the Attorney General of the United States.

(2) Prosecutors shall represent the United States as Prosecutors or Assistant Prosecutors as directed by the Chief Prosecutor and in accordance with 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.''

(3) Prosecutors shall fulfill all responsibilities detailed in 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' those set forth in this part, and those assigned by the Chief Prosecutor.

(4) Prosecutors shall ensure that all court reporters, security personnel, and interpreters who are to perform duties in relation to a military commission proceeding have taken an oath to perform their duties faithfully. As directed by the Presiding Officer, Prosecutors also shall administer appropriate oaths to witnesses during military commission proceedings.

§ 12.4 Duties and responsibilities of the prosecution.

(a) *Regular duties.* The Prosecution shall perform all duties specified or implied in 32 CFR part 9 as responsibilities of the Prosecution.

(b) *Administrative duties.* The Prosecution shall, as directed by the Presiding Officer or the Appointing Authority, prepare any documentation necessary to facilitate the conduct of military commissions proceedings. The Prosecution shall, as directed by the Deputy General Counsel (Legal Counsel), prepare a trial guide to provide a standardized administrative plan for the conduct of military commission proceedings. Unless directed otherwise by the Appointing Authority, the Presiding Officer may, in

his discretion, depart from this guide as appropriate.

(c) *Special duties.* The Prosecution shall perform all other functions, consistent with 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' as may be directed by the Appointing Authority or the General Counsel of the Department of Defense.

§ 12.5 Policies.

(a) *Prohibition on Prosecutors serving as Defense Counsel.* Judge advocates assigned to the Office of the Chief Prosecutor shall be deemed unavailable for service as Defense Counsel under 32 CFR 9.4(c)(3)(i).

(b) *Prohibition on certain disclosures.* All Prosecutors must strictly comply with 32 CFR 9.6(d)(5) and 9.9 to ensure they do not improperly disclose classified information, national security information, or state secrets to any person not specifically authorized to receive such information.

(c) *Statements to the media.* Consistent with DoD Directive 5122.5 [1], the Assistant Secretary of Defense for Public Affairs shall serve as the sole release authority for DoD information and audiovisual materials regarding military commissions. Personnel assigned to the Office of the Chief Prosecutor may communicate with news media representatives regarding cases and other matters related to military commissions only when approved by the Appointing Authority or the General Counsel of the Department of Defense.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16380 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

[1] Available at http://www.dtic.mil/whs/directives.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 13

Responsibilities of the Chief Defense Counsel, Detailed Defense Counsel, and Civilian Defense Counsel

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes the responsibilities of the Office of the Chief Defense Counsel and components thereof.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, (703) 693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rule making, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89–544)

It has been certified that 32 CFR part 13 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 13 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 13 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 13 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 13 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 13

Military law.

■ Accordingly, 32 CFR part 13 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 13—RESPONSIBILITIES OF THE CHIEF DEFENSE COUNSEL, DETAILED DEFENSE COUNSEL, AND CIVILIAN DEFENSE COUNSEL

Sec.
13.1 Purpose.
13.2 Authority.
13.3 Office of the Chief Defense Counsel.
13.4 Duties and responsibilities of the defense.
13.5 Policies.

Authority: 10 U.S.C. 113(d) and 140(b).

§ 13.1 Purpose.

This part establishes the responsibilities of the Office of Chief Defense Counsel and components thereof.

§ 13.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR, 2001 comp., p. 918, 66 FR 57833) and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 13.3 Office of the Chief Defense Counsel.

(a) *General.* The Office of the Chief Defense Counsel shall be a component of the Office of Military Commissions and shall be comprised of the Chief Defense Counsel, Defense Counsel, and other such persons properly under the supervision of the Chief Defense Counsel.

(b) *Chief Defense Counsel.* (1) The Chief Defense Counsel shall be a judge advocate of any United States armed force and shall be designated by the General Counsel of the Department of Defense.

(2) The Chief Defense Counsel shall report directly to the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense.

(3) The Chief Defense Counsel shall supervise all defense activities and the efforts of Detailed Defense Counsel and other office personnel and resources pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' ensuring proper supervision and management of all personnel and resources assigned to the Office of the Chief Defense Counsel and facilitating the proper representation of all Accused referred to trial before a military commission appointed pursuant to 32 CFR part 9, and Military Order of

November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.''

(4) The Chief Defense Counsel shall ensure that all personnel assigned to the Office of the Chief Defense Counsel review, and attest that they understand and will comply with, 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and all Supplementary Regulations and Instructions issued in accordance therewith. Furthermore, the Chief Defense Counsel shall regulate the conduct of Detailed Defense Counsel as deemed necessary, consistent with 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and subordinate instructions and regulations, and specifically shall ensure that Detailed Defense Counsel have been directed to conduct their activities consistent with applicable prescriptions and proscriptions specified in Section II of the Affidavit And Agreement By Civilian Defense Counsel at Appendix B to 32 CFR part 14.

(5) The Chief Defense Counsel shall inform the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense of all requirements for personnel, office space, equipment, and supplies to ensure the successful functioning and mission accomplishment of the Office of the Chief Defense Counsel.

(6) The Chief Defense Counsel shall supervise all Defense Counsel and other personnel assigned to the Office of the Chief Defense Counsel.

(7) The Chief Defense Counsel, or his designee, shall fulfill applicable performance evaluation requirements associated with Defense Counsel and other personnel properly under the supervision of the Chief Defense Counsel.

(8) The Chief Defense Counsel shall detail a judge advocate of any United States armed force to perform the duties of the Detailed Defense Counsel as set forth in 32 CFR 9.4(c)(2) and shall detail or employ any other personnel as directed by the Appointing Authority or the Presiding Officer in a particular case. The Chief Defense Counsel may not detail himself to perform the duties of Detailed Defense Counsel, nor does he form an attorney-client relationship with accused persons or incur any concomitant confidentiality obligations.

(i) The Chief Defense Counsel may, when appropriate, detail an additional judge advocate as Assistant Detailed Defense Counsel to assist in performing the duties of the Detailed Defense Counsel.

(ii) The Chief Defense Counsel may structure the Office of the Chief Defense Counsel so as to include subordinate supervising attorneys who may incur confidentiality obligations in the context of fulfilling their supervisory responsibilities with regard to Detailed Defense Counsel.

(9) The Chief Defense Counsel shall take appropriate measures to preclude Defense Counsel conflicts of interest arising from the representation of Accused before military commissions. The Chief Defense Counsel shall be provided sufficient information (potentially including protected information) to fulfill this responsibility.

(10) The Chief Defense Counsel shall take appropriate measures to ensure that each Detailed Defense Counsel is capable of zealous representation, unencumbered by any conflict of interest. In this regard, the Chief Defense Counsel shall monitor the activities of all Defense Counsel (Detailed and Civilian) and take appropriate measures to ensure that Defense Counsel do not enter into agreements with other Accused or Defense Counsel that might cause them or the Accused they represent to incur an obligation of confidentiality with such other Accused or Defense Counsel or to effect some other impediment to representation.

(11) The Chief Defense Counsel shall ensure that an Accused tried before a military commission pursuant to 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' is represented at all relevant times by Detailed Defense Counsel.

(12) The Chief Defense Counsel shall administer all requests for replacement Detailed Defense Counsel requested in accordance with 32 CFR 9.4(c)(3). He shall determine the availability of such counsel in accordance with this part.

(13) The Chief Defense Counsel shall administer the Civilian Defense Counsel pool, screening all requests for pre-qualification and ad hoc qualification, making qualification determinations and recommendations in accordance with 32 CFR part 9, this part, and 32 CFR part 14, and ensuring appropriate notification to an Accused of civilian attorneys available to represent Accused before a military commission.

(14) The Chief Defense Counsel shall ensure that all Detailed Defense Counsel and Civilian Defense Counsel who are to perform duties in relation to a military commission have taken an oath to perform their duties faithfully.

(15) The Chief Defense Counsel shall ensure that all personnel properly under the supervision of the Office of the Chief Defense Counsel possess the appropriate security clearances.

(c) *Detailed Defense Counsel.* (1) Detailed Defense Counsel shall be judge advocates of any United States armed force.

(2) Detailed Defense Counsel shall represent the Accused before military commissions when detailed in accordance with 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.'' In this regard Detailed Defense Counsel shall: defend the Accused to whom detailed zealously within the bounds of the law and without regard to personal opinion as to guilt; represent the interests of the Accused in any review process as provided by 32 CFR part 9; and comply with the procedures accorded the Accused pursuant to 32 CFR 9.5 and 9.6. Detailed Defense Counsel shall so serve notwithstanding any intention expressed by the Accused to represent himself.

(3) Detailed Defense Counsel shall have primary responsibility to prevent conflicts of interest related to the handling of the cases to which detailed.

(4) Detailed Defense Counsel shall fulfill all responsibilities detailed in 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' those set forth in this part, and those assigned by the Chief Defense Counsel.

(d) *Selected Detailed Defense Counsel.* (1) The Accused may select a judge advocate of any United States armed force to replace the Accused's Detailed Defense Counsel, provided that judge advocate has been determined to be available by the Chief Defense Counsel in consultation with the Judge Advocate General of that judge advocate's military department.

(2) A judge advocate shall be determined not to be available if assigned duties: as a general or flag officer; as a military judge; as a prosecutor in the Office of Military Commissions; as a judge advocate assigned to the Department of Defense Criminal Investigation Task Force or Joint Task Force Guantanamo; as a principal legal advisor to a command, organization, or agency; as an instructor or student at a service school, academy, college or university; or in any other capacity that the Judge Advocate General of the Military Department

concerned may determine not to be available because of the nature or responsibilities of their assignments, exigent circumstances, military necessity, or other appropriate reasons.

(3) Consistent with 32 CFR 9.6(b), the selection and replacement of new Detailed Defense Counsel shall not unreasonably delay military commission proceedings.

(4) Unless otherwise directed by the Appointing Authority or the General Counsel of the Department of Defense, the Chief Defense Counsel will, after selection of a new Detailed Defense Counsel, relieve the original Detailed Defense Counsel of all duties with respect to that case.

(e) *Qualified Civilian Defense Counsel.* (1) The Accused may, at no expense to the United States, retain the services of a civilian attorney of the Accused's own choosing to assist in the conduct of his defense before a military commission, provided that the civilian attorney retained has been determined to be qualified pursuant to 32 CFR 9.4(c)(3)(ii).

(2) Consistent with 32 CFR 9.6(b), the retention of Civilian Defense Counsel shall not unreasonably delay military commission proceedings.

(3) Representation by Civilian Defense Counsel will not relieve Detailed Defense Counsel of the duties specified in 32 CFR 9.4(c)(2).

(4) Neither qualification of a Civilian Defense Counsel for membership in the pool of available Civilian Defense Counsel nor the entry of appearance in a specific case guarantees that counsel's presence at closed military commission proceedings or access to information protected under 32 CFR 9.6(d)(5).

(5) The Chief Defense Counsel shall monitor the conduct of all qualified Civilian Defense Counsel for compliance with all rules, regulations, and instructions governing military commissions. The Chief Defense Counsel will report all instances of noncompliance with the rules, regulations, and instructions governing military commissions to the Appointing Authority and to the General Counsel of the Department of Defense with a recommendation as to any appropriate action consistent with 32 CFR part 9 and this part.

§ 13.4 Duties and responsibilities of the defense.

(a) *Regular duties.* The Defense shall perform all duties specified or implied in 32 CFR part 9 as responsibilities of the Defense.

(b) *Special duties.* The Office of the Chief Defense Counsel shall perform such other functions, consistent with 32 CFR part 9, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and the mission of the Office of the Chief Defense Counsel, as may be directed by the Appointing Authority or the General Counsel of the Department of Defense.

§ 13.5 Policies.

(a) *Prohibition on certain agreements.* No Defense Counsel may enter into agreements with any detainee other than his client, or such detainee's Defense Counsel, that might cause him or the client he represents to incur an obligation of confidentiality with such other detainee or Defense Counsel or to effect some other impediment to representation.

(b) *Prohibition on certain disclosures.* All Defense Counsel must strictly comply with 32 CFR 9.6(d)(5) and 9.9 to ensure they do not improperly disclose classified information, national security information, or state secrets to an Accused or potential Accused or to any other person not specifically authorized to receive such information.

(c) *Statements to the media.* Consistent with DoD Directive 5122.5 [1], the Assistant Secretary of Defense for Public Affairs shall serve as the sole release authority for DoD information and audiovisual materials regarding military commissions. Personnel assigned to the Office of the Chief Defense Counsel, as well as all members of the Civilian Defense Counsel pool and associated personnel may communicate with news media representatives regarding cases and other matters related to military commissions only when approved by the Appointing Authority or the General Counsel of the Department of Defense.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16381 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

[1] Available at *http://www.dtic.mil/whs/directives.*

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 14

Qualification of Civilian Defense Counsel

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes policies and procedures for the creation and management of the pool of qualified Civilian Defense Counsel authorized in regulations on Procedures for Trials by Military Commission of Certain Non-United States Citizens in the War Against Terrorism in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.''

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, (703) 693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rule making, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec.1, Pub. L. 89–544)

It has been certified that 32 CFR part 14 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 14 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 14 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 14 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 14 does not have federalism implications, as set forth in Executive

Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR part 14

Military law.

■ Accordingly, 32 CFR part 14 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 14—QUALIFICATION OF CIVILIAN DEFENSE COUNSEL

Sec.
14.1 Purpose.
14.2 Authority.
14.3 Policies and procedures.
Appendix A to Part 14—United States of America Authorization for Release of Information
Appendix B to Part 14—Affidavit and Agreement by Civilian Defense Counsel

Authority: 10 U.S.C. 113(d) and 140(b).

§ 14.1 Purpose.

This part establishes policies and procedures for the creation and management of the pool of qualified Civilian Defense Counsel authorized in 32 CFR 9.4 (c)(3)(ii) in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR 2001 Comp., 918, 66 FR 57833).

§ 14.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 14.3 Policies and procedures.

(a) *Application procedures.* (1) Civilian attorneys may be prequalified as members of the pool of attorneys eligible to represent Accused before military commissions at no expense to the United States if, at the time of application, they meet the eligibility criteria set forth in 32 CFR 9.4(c)(3)(ii) as further detailed in this part, or they may be qualified on an ad hoc basis after being requested by an Accused. In both cases, qualification results in membership in the pool of available Civilian Defense Counsel.

(2) An attorney seeking qualification as a member of the pool of available Civilian Defense Counsel shall submit an application, by letter, to: Office of the General Counsel, Department of Defense, (Attn: Chief Defense Counsel, Office of Military Commissions), 1600 Defense Pentagon, Washington, DC 20301–1600. Applications will be comprised of the letter requesting qualification for membership, together with the following documents that demonstrate satisfaction of the criteria set forth in 32 CFR 9.4(c)(3)(ii):

(i) Civilian Defense Counsel shall be United States citizens (32 CFR 9.4(c)(3)(ii)(A)). Applicants will provide proof of citizenship (*e.g.*, certified true copy of passport, birth certificate, or certificate of naturalization).

(ii) Civilian Defense Counsel shall be admitted to the practice of law in a State, district, territory or possession of the United States, or before a Federal court (32 CFR 9.4(c)(3)(ii)(B)). Applicants will submit an official certificate showing that the applicant is an active member in good standing with the bar of a qualifying jurisdiction. The certificate must be dated within three months of the date of the Chief Defense Counsel's receipt of the application.

(iii) Civilian Defense Counsel shall not have been the subject of any sanction or disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct (32 CFR 9.4(c)(2)(iii)).

(A) An applicant shall submit a statement detailing all sanctions or disciplinary actions, pending or final, to which he has been subject, whether by a court, bar or other competent governmental authority, for misconduct of any kind. The statement shall identify the jurisdiction or authority that imposed the sanction or disciplinary action, together with any explanation deemed appropriate by the applicant. Additionally, the statement shall identify and explain any formal challenge to the attorney's fitness to practice law, regardless of the outcome of any subsequent proceedings. In the event that no sanction, disciplinary action or challenge has been imposed on or made against an applicant, the statement shall so state. Further, the applicant's statement shall identify each jurisdiction in which he has been admitted or to which he has applied to practice law, regardless of whether the applicant maintains a current active license in that jurisdiction, together with any dates of admission to or rejection by each such jurisdiction and, if no longer active, the date of and basis for inactivation. The information shall be submitted either in the form of a sworn notarized statement or as a declaration under penalty of perjury of the laws of the United States. The sworn statement or declaration must be executed and dated within three months of the date of the Chief Defense Counsel's receipt of the application.

(B) Further, applicants shall submit a properly executed Authorization for Release of Information (Appendix A to this part), authorizing the Chief Defense Counsel or his designee to obtain information relevant to qualification of the applicant as a member of the Civilian Defense Counsel pool from each jurisdiction in which the applicant has been admitted or to which he has applied to practice law.

(iv) Civilian Defense Counsel shall be determined to be eligible for access to information classified at the level SECRET or higher under the authority of and in accordance with the procedures described in Department of Defense Regulation, DoD 5200.2–R, ''Personnel Security Program.'' [1] (32 CFR 9.4(c)(2)(iv)

(A) Civilian Defense Counsel applicants who possess a valid current security clearance of SECRET or higher shall provide, in writing, the date of their background investigation, the date such clearance was granted, the level of the clearance, and the adjudicating authority.

(B) Civilian Defense Counsel applicants who do not possess a valid current security clearance of SECRET or higher shall state in writing their willingness to submit to a background investigation in accordance with DoD 5200.2–R and to pay any actual costs associated with the processing of the same. The security clearance application, investigation, and adjudication process will not be initiated until the applicant has submitted an application that otherwise fully complies with this part and the Chief Defense Counsel has determined that the applicant would otherwise be qualified for membership in the Civilian Defense Counsel pool. Favorable adjudication of the applicant's personnel security investigation must be completed before an applicant will be qualified for membership in the pool of Civilian Defense Counsel. The Chief Defense Counsel may, at his discretion, withhold qualification and wait to initiate the security clearance process until such time as the Civilian Defense Counsel's services are likely to be sought.

(v) Civilian Defense Counsel shall have signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings (32 CFR 9.4(c)(2)(v)). This requirement shall be satisfied by the execution of the

[1] Available at *http://www.dtic.mil/whs/directives.*

Affidavit And Agreement By Civilian Defense Counsel at Appendix B to this part. The Affidavit And Agreement By Civilian Defense Counsel shall be executed and agreed to without change, (*i.e.*, no omissions, additions or substitutions). Proper execution shall require the notarized signature of the applicant. The Affidavit And Agreement By Civilian Defense Counsel shall be dated within three months of the date of the Chief Defense Counsel's receipt of the application.

(3) Applications mailed in a franked U.S. Government envelope or received through U.S. Government distribution will not be considered. Telefaxed or electronic mail application materials will not be accepted. Failure to provide all of the requisite information and documentation may result in rejection of the application. A false statement in any part of the application may preclude qualification and/or render the applicant liable for disciplinary or criminal sanction, including under 18 U.S.C. 1001.

(b) *Application review.* (1) The Chief Defense Counsel or his designee shall review all Civilian Defense Counsel pool applications for compliance with 32 CFR part 9 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and with this part.

(2) The Chief Defense Counsel shall consider all applicants for qualification as members of the Civilian Defense Counsel pool without regard to race, religion, color, sex, age, national origin, or other non-disqualifying physical or mental disability.

(3) The Chief Defense Counsel may reject any Civilian Defense Counsel application that is incomplete or otherwise fails to comply with 32 CFR part 9 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' or with this part.

(4) Subject to review by the General Counsel of the Department of Defense, the Chief Defense Counsel shall determine the number of qualified attorneys that shall constitute the pool of available Civilian Defense Counsel. Similarly, subject to review by the General Counsel of the Department of Defense, the Chief Defense Counsel shall determine the qualification of applicants for membership in such pool. This shall include determinations as to whether any sanction, disciplinary action, or challenge is related to relevant misconduct that would disqualify the Civilian Defense Counsel applicant.

(5) The Chief Defense Counsel's determination as to each applicant's qualification for membership in the pool of qualified Civilian Defense Counsel shall be deemed effective as of the date of the Chief Defense Counsel's written notification publishing such determination to the applicant. Subsequent to this notification, the retention of qualified Civilian Defense Counsel is effected upon written entry of appearance, communicated to the military commission through the Chief Defense Counsel.

(6) The Chief Defense Counsel may reconsider his determination as to an individual's qualification as a member of the Civilian Defense Counsel pool on the basis of subsequently discovered information indicating material nondisclosure or misrepresentation in the application, or material violation of obligations of the Civilian Defense Counsel, or other good cause, or the matter may be referred to the Appointing Authority or the General Counsel of the Department of Defense, who may revoke or suspend the qualification of any member of the Civilian Defense Counsel pool.

Appendix A to Part 14—United States of America Authorization for Release of Information

United States of America

Authorization for Release of Information

(Carefully read this authorization to release information about you, then sign and date it in ink.)

I authorize the Chief Defense Counsel, Office of Military Commissions, Department of Defense, his designee or other duly authorized representative of the Department of Defense who may be charged with assessing or determining my qualification for membership in the pool of Civilian Defense Counsel available to represent Accused before military commissions, to obtain any information from any court, the bar of any State, locality, district, territory or possession of the United States, or from any other governmental authority.

This information may include, but is not limited to, information relating to: Any application for a security clearance; my admission or application for admission to practice law in any jurisdiction, including action by the jurisdiction upon such application, together with my current status with regard to the practice of law in such jurisdiction; any sanction or disciplinary action to which I have been subject for misconduct of any kind; and any formal challenge to my fitness to practice law, regardless of the outcome of subsequent proceedings.

I authorize custodians of such records or information and other sources of information pertaining to me to release such at the request of the officials named above, regardless of any previous agreement to the contrary.

I understand that for certain custodians or sources of information a separate specific release may be required and that I may be contacted for the purposes of executing such at a later date.

I understand that the records or information released by custodians and other sources of information are for official use by the Department of Defense, only for the purposes provided herein, and that they may be redisclosed by the Department of Defense only as authorized by law.

Copies of this authorization that show my signature are as valid as the original signed by me. This authorization is valid for five (5) years from the date signed or upon termination of my affiliation with the Department of Defense, whichever is later.

_____

Signature (sign in ink) SSN

_____

Date

Appendix B to Part 14—Affidavit and Agreement by Civilian Defense Counsel

Affidavit and Agreement by Civilian Defense Counsel

Pursuant to Section 4(C)(3)(b) of Department of Defense Military Commission Order No. 1, ''Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism,'' dated March 21, 2002 (''MCO No. 1''), Military Commission Instructions No. 4, ''Responsibilities of the Chief Defense Counsel, Detailed Defense Counsel, and Civilian Defense Counsel'' (''MCI No. 4'') and No. 5, ''Qualification of Civilian Defense Counsel'' (''MCI No. 5''), and in accordance with the President's Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' 66 FR 57833 (Nov. 16, 2001) (''President's Military Order''), I [Name of Civilian Attorney], make this Affidavit and Agreement for the purposes of applying for qualification as a member of the pool of Civilian Defense Counsel available to represent Accused before military commissions and serving in that capacity.

I. *Oaths or Affirmations.* I swear or affirm that the following information is true to the best of my knowledge and belief:

A. I have read and understand the President's Military Order, MCO No. 1, MCI No. 4, MCI No. 5, and all other Military Commission Orders and Instructions concerning the rules, regulations and instructions applicable to trial by military commissions. I will read all future Orders and Instructions applicable to trials by military commissions.

B. I am aware that my qualification as a Civilian Defense Counsel does not guarantee my presence at closed military commission proceedings or guarantee my access to any information protected under Section 6(D)(5) or Section 9 of MCO No. 1.

II. *Agreements.* I hereby agree to comply with all applicable regulations and instructions for counsel, including any rules of court for conduct during the course of proceedings, and specifically agree, without limitation, to the following:

A. I will notify the Chief Defense Counsel and, as applicable, the relevant Presiding Officer immediately if, after the execution of

this Affidavit and Agreement but prior to the conclusion of proceedings (defined as the review and final decision of the President or, if designated, the Secretary of Defense), if there is any change in any of the information provided in my application, including this Affidavit and Agreement, for qualification as member of the Civilian Defense Counsel pool. I understand that such notification shall be in writing and shall set forth the substantive nature of the changed information.

B. I will be well-prepared and will conduct the defense zealously, representing the Accused throughout the military commission process, from the inception of my representation through the completion of any post trial proceedings as detailed in Section 6(H) of MCO No. 1. I will ensure that these proceedings are my primary duty. I will not seek to delay or to continue the proceedings for reasons relating to matters that arise in the course of my law practice or other professional or personal activities that are not related to military commission proceedings.

C. The Defense Team shall consist entirely of myself, Detailed Defense Counsel, and other personnel provided by the Chief Defense Counsel, the Presiding Officer, or the Appointing Authority. I will make no claim against the U.S. Government for any fees or costs associated with my conduct of the defense or related activities or efforts.

D. Recognizing that my representation does not relieve Detailed Defense Counsel of duties specified in Section 4(C)(2) of MCO No. 1, I will work cooperatively with such counsel to ensure coordination of efforts and to ensure such counsel is capable of conducting the defense independently if necessary.

E. During the pendency of the proceedings, unless I obtain approval in advance from the Presiding Officer to do otherwise, I will comply with the following restrictions on my travel and communications:

1. I will not travel or transmit documents from the site of the proceedings without the approval of the Appointing Authority or the Presiding Officer. The Defense Team and I will otherwise perform all of our work relating to the proceedings, including any electronic or other research, at the site of the proceedings (except that this shall not apply during post-trial proceedings detailed in Section 6(H) of MCO No. 1).

2. I will not discuss or otherwise communicate or share documents or information about the case with anyone except persons who have been designated as members of the Defense Team in accordance with this Affidavit and Agreement and other applicable rules, regulations and instructions.

F. At no time, to include any period subsequent to the conclusion of the proceedings, will I make any public or private statements regarding any closed sessions of the proceedings or any classified information or material, or document or material constituting protected information under MCO No. 1.

G. I understand and agree to comply with all rules, regulations and instructions governing the handling of classified information and material. Furthermore, no document or material constituting protected information under MCO No. 1, regardless of its classification level, may leave the site of the proceedings.

H. I understand that there may be reasonable restrictions on the time and duration of contact I may have with my client, as imposed by the Appointing Authority, the Presiding Officer, detention authorities, or regulation.

I. I understand that my communications with my client, even if traditionally covered by the attorney-client privilege, may be subject to monitoring or review by government officials, using any available means, for security and intelligence purposes. I understand that any such monitoring will only take place in limited circumstances when approved by proper authority, and that any evidence or information derived from such communications will not be used in proceedings against the Accused who made or received the relevant communication. I further understand that communications are not protected if they would facilitate criminal acts or a conspiracy to commit criminal acts, or if those communications are not related to the seeking or providing of legal advice.

J. I agree that I shall reveal to the Chief Defense Counsel and any other appropriate authorities, information relating to the representation of my client to the extent that I reasonably believe necessary to prevent the commission of a future criminal act that I believe is likely to result in death or substantial bodily harm, or significant impairment of national security.

K. I understand and agree that nothing in this Affidavit and Agreement creates any substantive, procedural, or other rights for me as counsel or for my client(s).

/s/ _____

Print Name: _____

Address: _____

Date: _____

State of)

County of)

Sworn to and subscribed before me, by _____, this __ day of ____, 20__.

Notary

My commission expires: _____

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16382 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 15

Reporting Relationships for Military Commission Personnel

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes supervisory and performance evaluation relationships for military commission personnel.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rule making, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89–544)

It has been certified that 32 CFR part 15 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 15 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 15 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 15 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 15 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 15

Military law.

■ Accordingly, 32 CFR part 15 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 15—REPORTING RELATIONSHIPS FOR MILITARY COMMISSION PERSONNEL

Sec.
15.1 Purpose.
15.2 Authority.
15.3 Policies and procedures.

Authority: 10 U.S.C. 113(d) and 140(b).

§ 15.1 Purpose.

This part establishes supervisory and performance evaluation relationships for military commission personnel.

§ 15.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR 2001 Comp., p. 918, 66 FR 57833) and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 15.3 Policies and Procedures.

(a) *Supervisory and performance evaluation relationships.* Individuals appointed, assigned, detailed, designated or employed in a capacity related to the conduct of military commission proceedings conducted in accordance with 32 CFR part 9 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' shall be subject to the relationships set forth in paragraphs (a)(1) through (a)(9) of this section. Unless stated otherwise, the person to whom an individual ''reports,'' as set forth in paragraphs (a)(1) through (a)(9) of this section, shall be deemed to be such individual's supervisor and shall, to the extent possible, fulfill all performance evaluation responsibilities normally associated with the function of direct supervisor in accordance with the subordinate's Military Service performance evaluation regulations.

(1) Appointing Authority: Any Appointing Authority designated by the Secretary of Defense pursuant to 32 CFR part 9 shall report to the Secretary of Defense in accordance with 10 U.S.C. 113(d).

(2) Legal Advisor to Appointing Authority: The Legal Advisor to the Appointing Authority shall report to the Appointing Authority.

(3) Chief Prosecutor: The Chief Prosecutor shall report to the Deputy General Counsel (Legal Counsel) of the Department of Defense and then to the General Counsel of the Department of Defense.

(4) Prosecutors and Assistant Prosecutors: Prosecutors and Assistant Prosecutors shall report to the Chief Prosecutor and then to the Deputy General Counsel (Legal Counsel) of the Department of Defense.

(5) Chief Defense Counsel: The Chief Defense Counsel shall report to the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense and then to the General Counsel of the Department of Defense.

(6) Detailed Defense Counsel: Detailed Defense Counsel shall report to the Chief Defense Counsel and then to the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense.

(7) Review Panel members: Members of the Review Panel shall report to the Secretary of Defense.

(8) Commission members: Commission members shall continue to report to their parent commands. The consideration or evaluation of the performance of duty as a member of a military commission is prohibited in preparing effectiveness, fitness, or evaluation reports of a commission member.

(9) Other personnel: All other military commission personnel, such as court reporters, interpreters, security personnel, bailiffs, and clerks detailed or employed by the Appointing Authority pursuant to 32 CFR 9.4(d), if not assigned to the Office of the Chief Prosecutor or the Office of the Chief Defense Counsel, shall report to the Appointing Authority or his designee.

(b) *Responsibilities of supervisory/reporting officials.* Officials designated in this part as supervisory/reporting officials shall:

(1) Supervise subordinates in the performance of their duties.

(2) Prepare fitness or performance evaluation reports and, as appropriate, process awards and citations for subordinates. To the extent practicable, a reporting official shall comply with the rated subordinate's Military Service regulations regarding the preparation of fitness or performance evaluation reports and in executing related duties.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16383 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 16

Sentencing

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule promulgates policy, assigns responsibilities, and prescribes procedures for matters related to sentencing of persons with regard to whom a finding of guilty is entered for an offense referred for trial by a military commission appointed pursuant to regulations on Procedures for Trials by Military Commission of Certain Non-United States Citizens in the War Against Terrorism, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.''

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rule making, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89–544)

It has been certified that 32 CFR part 16 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 16 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 16 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 16 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 16 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 16

Military law.

■ Accordingly, 32 CFR part 16 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 16—SENTENCING

Sec.
16.1 Purpose.
16.2 Authority.
16.3 Available sentences.
16.4 Sentencing procedures.

Authority: 10 U.S.C. 113(d) and 140(b).

§ 16.1 Purpose.

This part promulgates policy, assigns responsibilities, and prescribes procedures for matters related to sentencing of persons with regard to whom a finding of guilty is entered for an offense referred for trial by a military commission appointed pursuant to 32 CFR part 9 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism'' (3 CFR 2001 Comp., p. 918, 66 FR 57833).

§ 16.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 16.3 Available sentences.

(a) *General.* 32 CFR part 9 permits a military commission wide latitude in sentencing. Any lawful punishment or condition of punishment is authorized, including death, so long as the prerequisites detailed in 32 CFR part 9 are met. Detention associated with an individual's status as an enemy combatant shall not be considered to fulfill any term of imprisonment imposed by a military commission. The sentence determination should be made while bearing in mind that there are several principal reasons for a sentence given to those who violate the law. Such reasons include: punishment of the wrongdoer; protection of society from the wrongdoer; deterrence of the wrongdoer and those who know of his crimes and sentence from committing the same or similar offenses; and rehabilitation of the wrongdoer. In determining an appropriate sentence, the weight to be accorded any or all of these reasons rests solely within the discretion of commission members. All sentences should, however, be grounded in a recognition that military commissions are a function of the President's war-fighting role as Commander-in-Chief of the Armed Forces of the United States and of the broad deterrent impact associated with a sentence's effect on adherence to the laws and customs of war in general.

(b) *Conditions of imprisonment.* Decisions regarding the location designated for any imprisonment, the conditions under which a sentence to imprisonment is served, or the privileges accorded one during any period of imprisonment should generally not be made by the commission. Those decisions and actions, however, may be appropriate subjects for recommendation to the person making a final decision on the sentence in accordance with of 32 CFR 9.6(h).

(c) *Prospective recommendations for sentence modification.* A sentence imposed by military commission may be accompanied by a recommendation to suspend, remit, commute or otherwise modify the adjudged sentence in concert with one or more conditions upon which the suspension, remission, commutation, or other modification is contingent (usually relating to the performance, behavior or conduct of the Accused). Unless otherwise directed, a decision or action in accordance with such a recommendation will be effected by direction or delegation to the Appointing Authority by the official making a final decision on the sentence in accordance with of 32 CFR 9.6(h).

§ 16.4 Sentencing procedures.

(a) *General.* 32 CFR part 9 permits the military commission substantial discretion regarding the conduct of sentencing proceedings. Sentencing proceedings should normally proceed expeditiously. In the discretion of the Presiding Officer, as limited by the Appointing Authority, reasonable delay between the announcement of findings and the commencement of sentencing proceedings may be authorized to facilitate the conduct of proceedings in accordance with of 32 CFR 9.6(b).

(b) *Information relevant to sentencing.* 32 CFR 9.6(e)(10) permits the Prosecution and Defense to present information to aid the military commission in determining an appropriate sentence. Such information may include a recommendation of an appropriate sentence, information regarding sentence ranges for analogous offenses (*e.g.*, the sentencing range under the Federal Sentencing Guidelines that could be applicable to the Accused for the most analogous federal offenses), and other relevant information. Regardless of any presentation by the Prosecution or Defense, the military commission shall consider any evidence admitted for consideration prior to findings regarding guilt. The Presiding Officer may limit or require the presentation of certain information consistent with 32 CFR part 9 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism'.

(c) *Cases involving plea agreements.* In accordance with 32 CFR 9.6(a)(4), after determining the voluntary and informed nature of a plea agreement approved by the Appointing Authority, the military commission is bound to adjudge findings and a sentence pursuant to that plea agreement. Accordingly, the Presiding Officer may exercise the authority granted in of 32 CFR 9.6(e) to curtail or preclude the presentation of information and argument relative to the military commission's determination of an appropriate sentence.

(d) *Special duties.* In cases involving plea agreements or recommendations for certain conditions of imprisonment or prospective sentence modification, the Prosecution and Defense shall provide whatever post-trial information or recommendation as is relevant to any subsequent decision regarding such condition or suspension, remission, commutation, or other modification recommendation associated with the sentence.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16384 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 17

Administrative Procedures

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule promulgates policy, assigns responsibilities, and prescribes procedures for the conduct of trials by a military commission appointed pursuant to regulations on Procedures for Trials by Military Commission of Certain Non-United States Citizens in the War Against Terrorism, and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism'.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Office of Military Commission Spokesperson, 703–693–1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rule making, publication of the final rule in the **Federal Register** is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec.1, Pub. L. 89–544)

It has been certified that 32 CFR part 17 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, ''Regulatory Planning and Review'

It has been certified that 32 CFR part 17 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR part 17 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 17 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 17 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 17

Military law.

■ Accordingly, 32 CFR part 17 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 17—ADMINISTRATIVE PROCEDURES

Sec.
17.1 Purpose.
17.2 Authority.
17.3 Commission personnel.
17.4 Interlocutory questions.
17.5 Implied duties of the presiding officer.
17.6 Disclosures.

Authority: 10 U.S.C. 113(d) and 140(b).

§ 17.1 Purpose.

This part promulgates policy, assigns responsibilities, and prescribes procedures for the conduct of trials by a military commission appointed pursuant to 32 CFR part 9 and Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' (3 CFR 2001 Comp., p. 918, 66 FR 57833).

§ 17.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 17.3 Commission personnel.

(a) *Appointment and removal of Commission members.* (1) In accordance with 32 CFR part 9, the Appointing Authority shall appoint at least three but no more than seven members and one or two alternate members. The Appointing Authority may remove members and alternate members for good cause. In the event a member (or alternate member) is removed for good cause, the Appointing Authority may replace the member, direct that an alternate member serve in the place of the original member, direct that proceedings simply continue without the member, or convene a new commission. In the absence of guidance from the Appointing Authority regarding replacement, the Presiding Officer shall select an alternate member to replace the member in question.

(2) The Presiding Officer shall determine if it is necessary to conduct or permit questioning of members (including the Presiding Officer) on issues of whether there is good cause for their removal. The Presiding Officer may permit questioning in any manner he deems appropriate. Consistent with 32 CFR part 9, any such questioning shall be narrowly focused on issues pertaining to whether good cause may exist for the removal of any member.

(3) From time to time, it may be appropriate for a Presiding Officer to forward to the Appointing Authority information and, if appropriate, a recommendation relevant to the question of whether a member (including the Presiding Officer) should be removed for good cause. While awaiting the Appointing Authority's decision on such matter, the Presiding Officer may elect either to hold proceedings in abeyance or to continue. The Presiding Officer may issue any appropriate instructions to the member whose continued service is in question. A military commission shall not engage in deliberations on findings or sentence prior to the Appointing Authority's decision in any case in which the Presiding Officer has recommended a member's removal.

(b) *Military commission security officer.* The Appointing Authority may detail a Security Officer to advise a military commission on matters related to classified and protected information. In addition to any other duties assigned by the Appointing Authority, the Security Officer shall ensure that all classified or protected evidence and information is appropriately safeguarded at all times and that only personnel with the appropriate clearances and authorizations are present when classified or protected materials are presented before military commissions.

(c) *Other military commission personnel.* The Appointing Authority may detail court reporters, interpreters, security personnel, bailiffs, clerks, and any other personnel to a military commission as deemed necessary. In the absence of a detailing by the Appointing

Authority, the Chief Prosecutor shall be responsible to ensure the availability of necessary or appropriate personnel to facilitate the impartial and expeditious conduct of full and fair trials by military commission.

§ 17.4 Interlocutory questions.

(a) *Certification of interlocutory questions.* The Presiding Officer shall generally adjudicate all motions and questions that arise during the course of a trial by military commission. In accordance with 32 CFR 9.4(a)(5)(iv), however, the Presiding Officer shall certify all interlocutory questions, the disposition of which would effect a termination of proceedings with respect to a charge, for decision by the Appointing Authority. In addition, the Presiding Officer may certify other interlocutory questions to the Appointing Authority as the Presiding Officer deems appropriate.

(b) *Submission of interlocutory questions.* The Presiding Officer shall determine what, if any, documentary or other materials should be forwarded to the Appointing Authority in conjunction with an interlocutory question.

(c) *Effect of interlocutory question certification on proceedings.* While decision by the Appointing Authority is pending on any certified interlocutory question, the Presiding Officer may elect either to hold proceedings in abeyance or to continue.

§ 17.5 Implied duties of the presiding officer.

The Presiding Officer shall ensure the execution of all ancillary functions necessary for the impartial and expeditious conduct of a full and fair trial by military commission in accordance with 32 CFR part 9. Such functions include, for example, scheduling the time and place of convening of a military commission, ensuring that an oath or affirmation is administered to witnesses and military commission personnel as appropriate, conducting appropriate *in camera* meetings to facilitate efficient trial proceedings, and providing necessary instructions to other commission members. The Presiding Officer shall rule on appropriate motions or, at his discretion consistent with 32 CFR part 9, may submit them to the commission for decision or to the Appointing Authority as a certified interlocutory question.

§ 17.6 Disclosures.

(a) *General.* Unless directed otherwise by the Presiding Officer upon a showing of good cause or for some other reason, counsel for the Prosecution and the Defense shall provide to opposing counsel, at least one week prior to the scheduled convening of a military commission, copies of all information intended for presentation as evidence at trial, copies of all motions the party intends to raise before the military commission, and names and contact information of all witnesses a party intends to call. Motions shall also be provided to the Presiding Officer at the time they are provided to opposing counsel. Unless directed otherwise by the Presiding Officer, written responses to any motions will be provided to opposing counsel and the Presiding Officer no later than three days prior to the scheduled convening of a military commission.

(b) *Notifications by the prosecution.* The Prosecution shall provide the Defense with access to evidence known to the Prosecution that tends to exculpate the Accused as soon as practicable, and in no instance later than one week prior to the scheduled convening of a military commission.

(c) *Notifications by the defense.* The Defense shall give notice to the Prosecution of any intent to raise an affirmative defense to any charge at least one week prior to the scheduled convening of a military commission.

(d) *Evidence related to mental responsibility.* If the Defense indicates an intent to raise a defense of lack of mental responsibility or introduce expert testimony regarding an Accused's mental condition, the prosecution may require that the Accused submit to a mental examination by a military psychologist or psychiatrist, and both parties shall have access to the results of that examination.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16385 Filed 6–26–03; 12:40 pm]

BILLING CODE 5001–08–P

Federal Register

Tuesday,
July 1, 2003

Part IV

Department of Housing and Urban Development

Notice of Funding Availability (NOFA) for the Lead Hazard Reduction Demonstration Grant Program for Fiscal Year 2003; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4851–N–01]

Notice of Funding Availability (NOFA) for the Lead Hazard Reduction Demonstration Grant Program for Fiscal Year 2003

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice of funding availability.

I. Program Overview

Purpose of the Program. The purpose of the Lead Hazard Reduction Demonstration Grant Program is to assist areas with the highest lead paint abatement needs in undertaking programs for abatement, inspections, risk assessments, temporary relocations, and interim control of lead-based paint hazards in eligible privately owned, single family housing units, and multifamily buildings that are occupied by low-income families.

Available Funds. Approximately $49,675,000 in Fiscal Year 2003 funds.

Eligible Applicants. The eligible applicants must be a city, county, or similar unit of local government. States and Indian Tribes may apply on behalf of units of local government within their jurisdiction, if the local government designates the state or Indian Tribe as their applicant. Multiple units of a local government (or multiple local governments) may apply as part of a consortium; however, you must identify a lead applicant that will be responsible for ensuring compliance with all requirements specified in this NOFA. If you are a state or Tribal applicant, you must have a Lead-Based Paint Contractor Certification and Accreditation Program authorized by the Environmental Protection Agency (EPA).

Application Deadline. July 31, 2003.

Match. A 25 percent match in local funds.

II. Addresses and Application Submission Procedures

(A) *Application Submission.* See the General Section of the SuperNOFA for specific procedures concerning the form of application submission (*e.g.*, mailed applications, express mail, or overnight delivery). The General Section of the SuperNOFA was published in the **Federal Register** on April 25, 2003, at page 21002 and is available on HUD's website at *http://www.hud.gov/offices/adm/grants/nofa/grplead.cfm.* Applicants for this NOFA must also read the General Section of the SuperNOFA in order to submit an acceptable application. There is no application kit for this NOFA.

(B) *Addresses.* You, the applicant, must submit a complete application (although not required, applicants are encouraged to submit 3 additional copies of their application) to: Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control, ATTN: Lead Hazard Reduction Demonstration Grant Program, 451 Seventh Street, SW., Room P3206, Washington, DC 20410–0001.

For Further Information and Technical Assistance: You may contact Matthew E. Ammon, Director, Lead Hazard Control Grants Division, Office of Healthy Homes and Lead Hazard Control, at the address above; telephone (202) 755–1785, extension 158 (this is not a toll-free number). If you are a hearing -or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

III. Authority, Funding Amounts, and Amount of Funds Allocated

(A) *Authority.* The Lead Hazard Reduction Demonstration Grant Program is authorized by Section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992). HUD's authority for making funding available under this NOFA is the Consolidated Appropriations Resolution of 2003, Pub. L. 108–7, approved February 20, 2003.

(B) *Funding Available and Eligibility.* Approximately $49.9 million in Fiscal Year 2003 funds is available. The minimum award amount shall be $2 million per grant. The maximum award amount shall be $4 million per grant. Approximately 12–25 grants will be awarded.

IV. Eligible Applicants and Activities

(A) *Program Description.* The Lead Hazard Reduction Demonstration Grant Program assists areas with the highest lead paint abatement needs in undertaking programs for abatement, inspections, risk assessments, temporary relocations, and interim control of lead-based hazards in eligible privately owned, single family housing units, and multifamily buildings that are occupied by low-income families, as defined by Section 3(b)(2) of the Housing Act of 1937. Areas with the highest lead-based paint abatement needs are identified as having: (1) The highest number of pre-1940 units of rental housing; and (2) a disproportionately high number of documented cases of lead-poisoned children.

Appendix B lists additional HUD-associated housing programs that meet the definition of eligible housing under this program.

(1) Because lead-based paint is a national problem, these funds will be awarded to programs which:

(a) Maximize the combination of children protected from lead poisoning and housing units where lead hazards are controlled;

(b) Target lead hazard control efforts at housing in which children are at greatest risk of lead poisoning;

(c) Stimulate cost-effective approaches that can be replicated;

(d) Emphasize lower cost methods of hazard control;

(e) Build local capacity to safely and effectively address lead hazards during lead hazard control, renovation, remodeling, and maintenance activities; and

(f) Affirmatively further fair housing and environmental justice.

(2) The objectives of this program include:

(a) Implementation of a national strategy, as defined in Title X of the Housing and Community Development Act of 1992 (42 U.S.C. 4851 *et seq.*) (Title X), to build the community's capacity necessary to eliminate lead-based paint hazards in housing, as widely and quickly as possible by establishing a workable framework for lead-based paint hazard identification and control;

(b) Mobilization of public and private resources, involving cooperation among all levels of government, the private sector, and grassroots faith-based or other community-based organizations to develop cost-effective methods for identifying and controlling lead-based paint hazards;

(c) Development of comprehensive community approaches which result in integration of all community resources (governmental, grassroots faith-based or other community-based, and private businesses) to address lead hazards in housing;

(d) Integration of lead-safe work practices into housing maintenance, repair, weatherization, rehabilitation, and other programs that will continue after the grant period ends;

(e) Establishment of a public registry (listing) of lead-safe housing or inclusion of the lead-safe status of properties in another publicly accessible address-based property information system and affirmatively marketed to families with young children; and

(f) To the greatest extent feasible, promotion of job training, employment, and other economic opportunities for low-income and minority residents and

businesses that are owned by and/or employ low-income and minority residents as defined in 24 CFR 135.5 (see 59 FR 33881, June 30, 1994).

(B) *Eligible Applicants and Threshold Requirements.* (1) To be eligible to apply for funding under this program, the applicant must be a city, county, or similar unit of local government. States and Indian Tribes may apply on behalf of units of local government within their jurisdiction, if the local government designates the state or the Indian Tribe as their applicant. Multiple units of a local government (or multiple local governments) may apply as part of a consortium; however, you must identify a lead applicant that will be responsible for ensuring compliance with all requirements specified in this NOFA. If you are a state or Tribal applicant, you must have a Lead-Based Paint Contractor Certification and Accreditation Program authorized by the Environmental Protection Agency (EPA). You may submit only one application. In the event that multiple applications are submitted, this will be considered a technical deficiency and the application review process delayed until you notify HUD in writing which application should be reviewed. Your other applications will be returned unevaluated (*see* Section VIII of the General Section of the SuperNOFA). In addition, if you or any member of your consortium also applied for funding under the recent Fiscal Year 2003 Lead Hazard Control Grant Program Notice of Funding Availability, you must discuss how both programs will operate concurrently and how program activities will be combined to achieve maximum benefits.

(2) *Threshold Requirements.* As an eligible applicant, you must also meet all of the threshold requirements in Section V(B) of the General Section of the SuperNOFA as well as the specific threshold requirements listed in this subsection. Applications will not be rated or ranked if they do not meet the threshold requirements.

(a) Applicants must report the total number of pre-1940 rental units within the jurisdiction(s) where funds will be used (data from the 2000 U.S. Census are acceptable). Applicants must have at least 3,200 pre-1940 rental housing units in order to apply under this NOFA. Appendix C includes the top 100 areas ranked by the number of pre-1940 rental housing units as determined by the year 2000 U.S. Census. Failure to provide the number of pre-1940 rental units will result in the application not being evaluated.

(b) Provide the actual number of documented cases of lead-poisoned children residing within the applicant's jurisdiction(s) for the most recent complete calendar year and identify the source of the data. Data prior to calendar year 2000 will not be accepted. States and Indian Tribes must report the number in the city, county, or other area where funds will actually be used. Consortia of local governments must report the number in the cities or counties making up the consortium. For the purposes of this application, a ''documented case'' of childhood lead poisoning is a child under six years of age with a blood lead level test of equal to or greater than 10 micrograms of lead per deciliter of blood, which was performed by a medical health care provider. The actual number of documented cases (not an estimate) must be reported to HUD in order to be eligible for this grant program. Do not send the children's names, addresses, or other identifiers. Failure to provide this number in the application means that the application will not be rated or ranked.

(3) *Consolidated Plans.* (This requirement does not apply to Native American Tribes.)

(a) If your jurisdiction has a current HUD-approved Consolidated Plan, you must submit, as an appendix, a copy of the lead-based paint element included in the approved Consolidated Plan. If the Analysis of Impediments (AI) includes references to lead-based paint as an impediment to fair housing, this should be included in your application as well. If the same applicant agency also submitted an application for the recently published Fiscal Year 2003 Lead Hazard Control Grant Program Notice of Funding Availability, you may refer to this material for proof of documentation if the applicant agencies are the same. You are not required to resubmit this material for this NOFA.

(b) If your jurisdiction does not have a currently approved Consolidated Plan, but it is otherwise eligible for this grant program, you must include your jurisdiction's abbreviated Consolidated Plan, which includes a lead-based paint hazard control strategy developed in accordance with 24 CFR 91.235.

(4) *EPA Authorization.* If you are a state government or Indian (Native American) Tribal government, you must have an EPA-authorized Lead-Based Paint Training and Certification Program in effect on the application deadline date to be eligible to apply for Lead Hazard Control Grant funds. The approval date in the **Federal Register** notice published by the EPA will be used in determining the Training and Certification status of the applicant state or Indian (Native American) Tribal government.

(C) *Eligible Activities.* HUD is interested in promoting lead hazard control approaches that result in the reduction of this health threat for the maximum number of low-income families with children under six years of age, for the longest period of time, and that demonstrate techniques which are cost-effective, efficient, and replicable elsewhere. Activities must be conducted in compliance with HUD's Lead-Safe Housing Regulation, 24 CFR part 35. Copies of this Regulation are available from the Office of Healthy Homes and Lead Hazard Control website at: *http://www.hud.gov/offices/lead.*

(1) Not less than 90 percent of the funds made available shall be used exclusively for abatement and/or interim controls (with clearance testing), inspections, risk assessments, and temporary relocations. These include Direct Project Elements (a)–(e) that you may undertake directly or through sub-recipients:

(a) Performing dust testing, inspections, and risk assessments of eligible housing units constructed prior to 1978 to determine the presence of lead-based paint and/or lead hazards from paint, dust, or soil through the use of acceptable testing procedures. All test results must be provided to the owner of the unit, together with a notice describing the owner's legal duty to disclose the results to tenants and buyers.

(b) Conducting lead hazard control activities that may include any combination of the following:

i. Interim controls of lead-based paint hazards including lead-contaminated soil in housing (that must include specialized cleaning techniques to address lead dust, according to the HUD Guidelines, located at *http://www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm.*

ii. Abatement. The complete abatement of all lead-based paint hazards in a unit or structure is acceptable if it is cost-effective and if prior HUD approval is obtained. Abatement of lead-contaminated soil should be limited to areas with bare soil in the immediate vicinity of the structure, *i.e.* dripline or foundation of the unit being treated, and children's play areas.

All lead hazards identified in a housing unit enrolled in this grant program must be controlled or eliminated by any combination of these strategies.

(c) Carrying out temporary relocation of families and individuals during the period in which hazard control is

conducted and until the time the affected unit receives clearance for reoccupancy. If families or individuals are temporarily relocated in a project which utilizes Community Development Block Grant funds, the guidance and requirements of 24 CFR 570.606(b)(2)(i)D(1)–(3) must be met. HUD recommends you review these regulations when preparing your proposal.

(d) Undertaking minimal housing rehabilitation activities that are specifically required to carry out effective hazard control, and without which the hazard control could not be completed and maintained. These grant funds may be used for lead hazard control work done in conjunction with other housing rehabilitation programs. HUD strongly encourages integration of this grant program with housing rehabilitation, maintenance, weatherization, and other energy conservation activities.

(e) Conducting clearance dust-wipe testing and laboratory analysis (the laboratory must be recognized by the National Lead Laboratory Accreditation Program (NLLAP) as being capable of performing lead analyses of samples of paint, dust-wipes, and/or soil).

(2) The following are supporting Project Elements that may be undertaken through matching or other available funds only:

(a) Conducting targeted community awareness, affirmative marketing, education or outreach programs on lead hazard control and lead poisoning prevention designed to increase the ability of the program to deliver lead hazard control services including educating owners of rental properties, tenants, and others on the Residential Lead-Based Paint Hazard Reduction Act, Lead-Safe Housing Regulation, and applicable provisions of the Fair Housing Act, and offering educational materials in languages other than English, when needed, and providing training on lead-safe maintenance and renovation practices and management. Upon request, this also would include making all materials available in alternative formats to persons with disabilities (*e.g.,* Braille, audio, and large type).

(b) Engineering and architectural activities that are required for, and in direct support of, lead hazard control work.

(c) Procuring liability insurance for lead-hazard control activities.

(d) Supporting data collection, analysis, and evaluation of grant program activities. This includes compiling and delivering such information and data as may be required by HUD. This activity is separate from administrative costs.

(e) Purchasing or leasing equipment having a per unit cost under $5,000.

(f) Purchasing or leasing no more than two X-ray fluorescence analyzers for use by this program, if not already available.

(g) Preparing a final report at the conclusion of grant activities.

(3) Support Elements.

(a) Administrative costs. There is a 10 percent maximum for administrative costs as specified in Section 1011(j) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, Public Law 102–550). Additional information about allowable administrative costs is provided in Appendix B.

(b) Program planning and management costs of sub-grantees and other sub-recipients.

(D) *Ineligible Activities.* You may not use grant funds for:

(1) Purchase of real property.

(2) Purchase or lease of equipment having a per unit cost in excess of $5,000, except for the purchase of X-ray fluorescence analyzers.

(3) Chelation or other medical treatment costs related to children with elevated blood lead levels. Non-federal funds used to cover these costs may be counted as part of the required matching contribution.

(4) Lead hazard control activities in publicly owned housing, or project-based Section 8 housing (This housing stock is not eligible under Section 1011 of the Lead-Based Paint Hazard Reduction Act).

V. Requirements

Except as modified in this section, all the requirements, procedures, and principles listed in Section V of the General Section of the SuperNOFA apply to this program.

(A) *Matching Contribution.* You must provide a matching contribution of at least 25 percent of the requested grant sum. This may be in the form of cash, including private sector funding, or in-kind (non-cash) contributions, or a combination of these sources. With the exception of Community Development Block Grant (CDBG) funds, Federal Revenue Sharing programs, or other programs which by statute allow their funds to be considered local funds and therefore eligible to be used as matching funds, federal funds may not be used to satisfy the required 25 percent matching requirement. Federal funds may be used, however, for contributions above the statutory requirement.

(B) *Program Requirements.* The applicant must also comply with the following:

(1) *Work Activities.* All lead hazard control activities must be conducted in compliance with the applicable requirements of HUD's Lead-Safe Housing Regulation, 24 CFR part 35, and as clarified in HUD's Interpretive Guidance about the rule located at *http://www.hud.gov/offices/lead/guidelines/leadsaferule/index.cfm.* Activities must also comply with any additional requirements in effect under a state or Tribal Lead-Based Paint Training and Certification Program that has been authorized by the EPA pursuant to 40 CFR 745.320.

(2) *Direct Lead Hazard Identification and Control Activities.* Not less than 90 percent of the funds made available shall be used exclusively for abatement, inspections, risk assessments, temporary relocations, and interim control of lead-based hazards.

(3) By September 30, 2005, a statewide or jurisdiction-wide strategic plan to eliminate childhood lead poisoning as a major public health problem by 2010 (further guidance will be provided to grantees on developing the elimination plan) must be submitted to HUD. Applicants are encouraged to collaborate with grantees of the Centers for Disease Control and Prevention (CDC), which are also now required to develop such local plans. At a minimum, the plan must include the following elements:

i. Mission Statement
ii. Purpose and Background on Lead Poisoning Prevalence
iii. Goals, Objectives, and Activities
iv. Evaluation Plan

(C) *Administrative Costs.* There is a 10 percent maximum for administrative costs as specified in Section 1011(j) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, Public Law 102–550). Additional information about allowable administrative costs is provided in Appendix B.

(D) *Period of Performance.* The period of performance is 42 months. HUD reserves the right to approve no cost time extensions for a period not to exceed 12 months.

(E) *Certified and Trained Performers.* Funded activities must be conducted by persons qualified for the activities according to 24 CFR part 35 (possessing certification as abatement contractors, risk assessors, inspectors, abatement workers, or sampling technicians, or others having been trained in a HUD-approved course in lead-safe work practices).

(F) *Coastal Barrier Resources Act.* Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), you may not use these grant funds for properties located in the Coastal Barrier Resources System.

(G) *Flood Disaster Protection Act.* Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), you may not use these grant funds for lead-based paint hazard control of a building or manufactured home that is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance on the property must be obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(H) *National Historic Preservation Act.* The National Historic Preservation Act of 1966 (16 U.S.C. 470) and the regulations at 36 CFR Part 800 apply to the lead-based paint hazard control activities that are undertaken pursuant to this program. HUD and the Advisory Council for Historic Preservation have developed an optional Model Agreement for use by grantees and State Historic Preservation Officers in carrying out activities under this program. The Model Agreement may be obtained from the HUD website at: *http://www.hud.gov/offices/lead/grantfrm/pgi/95_06.pdf*

(I) *Waste Disposal.* You must handle waste disposal according to the requirements of the appropriate local, state, and federal regulatory agencies. You must handle disposal of wastes from hazard control activities that contain lead-based paint, but are not classified as hazardous in accordance with state or local law or the HUD Guidelines for the Evaluation and Control of Lead-Based Hazards in Housing (HUD Guidelines). The Guidelines are available from the HUD website at: *http://www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm.*

(J) *Worker Protection Procedures.* You must observe the procedures for worker protection established in the HUD Guidelines, as well as the requirements of the Occupational Safety and Health Administration (OSHA) (29 CFR 1926.62, Lead Exposure in Construction), or applicable state or local occupational safety and health regulations, whichever are most protective. If other applicable requirements contain more stringent requirements than the HUD Guidelines, the more rigorous standards shall be followed.

(K) *Prohibited Practices.* You must not engage in the following prohibited practices:

(1) Open flame burning or torching;

(2) Machine sanding or grinding without a high-efficiency particulate air (HEPA) exhaust control;

(3) Uncontained hydro blasting or high-pressure wash;

(4) Abrasive blasting or sandblasting without HEPA exhaust control;

(5) Heat guns operating above 1,100 degrees Fahrenheit;

(6) Chemical paint strippers containing methylene chloride or other volatile hazardous chemicals in a poorly ventilated space; and

(7) Dry scraping or dry sanding, except scraping in conjunction with heat guns or around electrical outlets or when treating no more than two square feet in any one interior room or space, or totaling no more than 20 square feet on exterior surfaces.

(L) *Written Policies and Procedures.* You must have clearly established written policies and procedures for eligibility, program marketing, unit selection, expediting work on homes occupied by children with elevated blood lead levels, and all phases of lead hazard control, including risk assessment, inspection, development of specifications, pre-hazard control blood lead testing, financing, relocation, and clearance testing. Grantees, subcontractors, sub-grantees, sub-recipients, and their contractors must adhere to these policies and procedures.

(M) *Continued Availability of Lead-Safe Housing to Low-Income Families.* Units in which lead hazards have been controlled under this program shall be occupied by and/or continue to be available to low-income families for at least three years as required by Title X (Section 1011). You must maintain a publicly available registry (listing) of units in which lead hazards have been controlled and ensure that these units are affirmatively marketed to agencies and families as suitable housing for families with children under six years of age. The grantee must also notify the owner of the information that is collected so that the owner will comply with disclosure requirements under 24 CFR part 35, subpart A.

(N) *Testing.* In developing your application budget, include costs for lead paint inspection, risk assessment, and clearance testing for each dwelling that will receive lead hazard control, as follows:

(1) *General.* All testing and sampling shall conform to the current HUD Guidelines and federal, state, or tribal regulations developed as part of the appropriate contractor certification program whichever is more stringent. It is particularly important to provide this full cycle of testing for lead hazard control, including interim controls. Testing must be conducted according to the HUD Guidelines, located at *http://www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm,* and the EPA lead hazard standards rule at 40 CFR part 745. All test results must be provided to the owner in a timely fashion, together with a notice describing the owner's legal duty to disclose the results to tenants and buyers under 24 CFR part 35, subpart A.

(a) Lead-Based Paint and Lead-Based Paint Hazard Identification. A combined inspection and risk assessment is required. You should ensure that lead paint inspection and risk assessment reports are conducted in accordance with established protocols and sufficient to support hazard control decisions.

(b) Clearance Testing. Clearance testing shall be completed in accordance with Chapter 15 of the HUD Guidelines and the EPA lead hazards standards rule at 40 CFR part 745 for abatement projects and the Lead-Safe Housing Regulation (24 CFR part 35) for lead hazard control activities or other abatement. The clearance standards shall be the more restrictive of those set by the local jurisdiction or by EPA or HUD.

(c) Blood lead testing. Before lead hazard control work begins, each occupant who is under six years of age should be tested for lead poisoning within the six months preceding the housing intervention. Any child with an elevated blood lead level must be referred for appropriate medical follow-up. The standards for such testing are described in the Centers for Disease Control and Prevention (CDC) publications *Preventing Lead Poisoning in Young Children* (1991), and *Screening Young Children for Lead Poisoning: Guidance for State and Local Public Health Officials* (1997).

(O) *Cooperation with Related Research and Evaluation.* (a) You shall cooperate fully with any research or evaluation sponsored by HUD, CDC,

EPA or other government agency and associated with this grant program, including preservation of project data and records and compiling requested information in formats provided by the researchers, evaluators, or HUD. This may also include the compiling of certain relevant local demographic, dwelling unit, and participant data not contemplated in your original proposal. Participant data shall be subject to Privacy Act protection.

(b) If your program includes conducting research involving human subjects in a manner which requires Institutional Review Board (IRB) approval and periodic monitoring, address how you will obtain such approval and your monitoring plan (before you can receive funds from HUD for activities that require IRB approval, you must provide an assurance that your study has been reviewed and approved by an IRB and evidence of your organization's institutional assurance). Describe how you will provide informed consent (*e.g.*, from the subjects, their parents, or their guardians, as applicable) to help ensure their understanding of, and consent to, the elements of informed consent, such as the purposes, benefits, and risks of the research. Describe how this information will be provided and how the consent will be collected. For example, describe your use of ''plain language'' forms, flyers, and verbal scripts, and how you plan to work with families with limited English proficiency or primary languages other than English, and with families including persons with disabilities.

(P) *Data collection.* You will be required to collect and maintain the data necessary to document the various lead hazard control methods used and the cost of these methods.

(Q) *Section 3 Employment Opportunities.* Please see Section V(E) of the General Section of the SuperNOFA. The requirements of Section 3 of the Housing and Urban Development Act of 1968 are applicable to this program.

(R) *Replacing Existing Resources.* Funds received under this grant program shall not be used to replace existing community resources dedicated to any ongoing project.

(S) *Certifications and Assurances.* You must include the certifications and assurances listed in Section I of the General Section of the SuperNOFA with your application.

(T) *Davis-Bacon Act.* The Davis-Bacon Act does not apply to this program. However, if you use grant funds in conjunction with other federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other federal programs.

(U) *Conducting Business in Accordance with HUD Core Values and Ethical Standards.* If awarded assistance under this NOFA, you will be required, prior to entering into a new or modified grant agreement with HUD, to submit a copy of your code of conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your code of conduct (*see* SectionV(B) of the General Section of the SuperNOFA for information about conducting business in accordance with HUD's core values and ethical standards).

(V) *Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses.* HUD is committed to ensuring that small businesses, small disadvantaged businesses, and women-owned businesses participate fully in HUD's direct contracting and in contracting opportunities generated by HUD grant funds. Too often, these businesses still experience difficulty accessing information and successfully bidding on federal contracts. HUD regulations at 24 CFR 85.36(e) require recipients of assistance (grantees and sub-grantees) to take all necessary affirmative steps in contracting for purchase of goods or services to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance of the Small Business Administration (SBA), and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2)(i) through (v) above.

(W) *Proposed Exceptions to HUD Requirements.* Proposed methods that differ from HUD's Lead Safe Housing Rule will be considered on their merits through a separate HUD review and approval process after the grant award is made and a specific justification has been presented. HUD may consult with experts from both the public and private sectors. HUD will not approve methods that, in HUD's opinion, involve a lowering of standards that have the potential to adversely affect the health of residents, contractors or workers, or the environment.

VI. Application Selection Process

(A) *Rating and Ranking.* Please see Section VI (B) of the General Section of the SuperNOFA. Only those applications that meet the threshold review requirements will be rated and ranked. HUD intends to fund the highest ranked applications within the limits of funding. In addition, the work plan and budget submitted in response to this NOFA will be evaluated as part of the rating and ranking process.

(1) *Adjustments to Funding.* See Section VI (F) of the General Section of the SuperNOFA for additional information.

(a) HUD reserves the right to fund an amount different than the full amount requested in your application to ensure the fair distribution of funds and ensure that the purposes or requirements of this program are met.

(b) HUD will not fund any portion of your application that is not eligible for funding under specific program statutory or regulatory requirements or does not meet the requirements of this NOFA. Only the eligible portions of your application may be funded.

(B) *Factors for Award Used to Evaluate and Rate Applications.* The factors for rating and ranking applicants, and maximum points for each factor, are stated below. Each applicant shall submit a detailed work plan and strategy that demonstrates adequate capacity. Applications will be evaluated based on the criteria below. The maximum number of points to be awarded will be 100.

(1) HUD is encouraging applicants to undertake specific activities that will assist the Department in implementing its policy priorities. HUD's Strategic Goals and Policy Priorities are outlined in Section II of the General Section of the SuperNOFA. Activities that promote economic opportunities for low-income persons support HUD's policy priority for: *Improving the Quality of Life in Our Nation's Communities.* An applicant will be awarded one point under Rating Factor 3 (A) (3): *Economic*

Opportunities for activities undertaken that specifically address this policy priority. Activities that promote the participation of grassroots faith-based or other community organizations support HUD's policy priority for: *Providing Full and Equal Access to Grassroots Faith-Based or Other Community-Based Organizations.* An applicant will be awarded one point under Rating Factor 3 (A) (4): *Lead Hazard Control Outreach and Community Private Sector Involvement* for activities undertaken that specifically addresses this policy priority. The maximum number of points to be awarded is 100. A minimum score of 75 is required for fundable applications.

Rating factor	Maximum points
1. Capacity of the Applicant and Relevant Organizational Experience	30
2. Demonstrated Need/Extent of the Problem	15
3. Soundness of Approach/Work Plan/Budget	55
Total	100

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (30 points)

This factor addresses your organizational capacity necessary to successfully implement the proposed activities in a timely manner. The rating of the ''applicant'' or the ''applicant's staff'' for technical merit or threshold compliance, unless otherwise specified, includes any grassroots faith-based or other community-based organizations, sub-contractors, consultants, sub-recipients, and members of consortia that are firmly committed to your project. In rating this factor, HUD will consider:

(1) The applicant's recent, relevant, and successful demonstrated experience (including governmental, parent groups, and grassroots faith-based or other community-based partners) to undertake eligible program activities. The applicant must describe the knowledge and experience of the current or proposed overall project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs, especially involving housing rehabilitation, public health, or environmental programs. The applicant must demonstrate that it has sufficient personnel or will be able to retain qualified experts or professionals, and be prepared to perform lead hazard evaluation, lead hazard control intervention work, and other proposed activities within 120 days of the effective date of the grant award. HUD reserves the right to terminate the grant if sufficient personnel or qualified experts are not retained within these 120 days. In the narrative response for this factor, you should include information on your program staff, their experience and commitment to the program, salary information, and position titles. Resumes (for up to three key personnel) or position descriptions for those key personnel to be hired, and a clearly identified organizational chart for the lead hazard control grant program effort (and for the overall organization) must be included in an appendix. Indicate the percentage of time that key personnel will devote to your project (*see* Appendix A of this NOFA for Sample Worksheet 1-Key Personnel). The applicant's day-to-day program manager must be experienced in the management of housing rehabilitation or lead hazard control, childhood lead poisoning prevention, or similar work involving project management. Ideally, the program manager should be available at the inception of the program in order to implement this comprehensive program within the 120-day period after the effective date of the grant award. The applicant should provide a description of any previous experience in enrolling units and in completing lead hazard control work, housing rehabilitation, or other work in a timely and effective manner. Describe how any other principal components of your agency, other public entities, or other organizations will participate in implementing or otherwise supporting or participating in the grant program. You may demonstrate capacity by thoroughly describing your prior experience in initiating and implementing lead hazard control efforts and/or related environmental, health, or housing projects. You should indicate how this prior experience would be used in carrying out your proposed comprehensive Lead Hazard Reduction Demonstration Grant Program.

(2) If the applicant received previous HUD Lead-Based Paint Hazard Control Grant funding, this past experience will be evaluated in terms of cumulative progress and achievements under the previous grant(s). Where the applicant has received multiple HUD Lead Hazard Control Grants, performance under the most recent grant award will be primarily evaluated. If you are a current or prior grantee, you must provide the detail necessary to assure HUD that you will implement the proposed work immediately and perform it concurrently with existing lead hazard control grant work. The applicant must provide a description of its progress and performance in implementing the most recent grant award including the total number of housing units enrolled, assessed, in progress, and completed and cleared as of the most recent calendar quarter.

Rating Factor 2: Demonstrated Need/Extent of the Problem (15 points)

This factor addresses the extent to which there is a need for the proposed program to address a documented problem related to lead-based paint and lead-based paint hazards in your identified target area(s). An applicant will be scored in this rating factor based on their documented need as evidenced by thorough, credible, and appropriate data and information. The evaluation will be based only on the applicant's documentation of the data requested. The data submitted in response to this rating factor will be verified using data available from the Census and in cooperation with the Centers for Disease Control and Prevention.

(1)Provide the actual number of documented cases of lead-poisoned children residing within the applicant's jurisdiction for the most recent complete calendar year and identify the source of the data. Data prior to calendar year 2000 will not be accepted. States must report the number in the city, county, or other area where funds will actually be used. Consortia of local governments must report the number in the cities or counties making up the consortium. For the purposes of this application, a ''documented case'' of childhood lead poisoning is a child under six years of age with a blood lead level test of equal to or greater than 10 micrograms of lead per deciliter of blood, which was performed by a medical health care provider. The actual number of documented cases (not an estimate) must be reported to HUD in order to be eligible for this grant program. Do not send the children's names or addresses or other identifiers. Failure to provide this number in the application means that the application will not be rated or ranked. Points will be awarded based on the charts below.

Points awarded	Pre-1940 units of rental housing
1	< 5,000
2	5,000–15,000
3	15,001–25,000
4	25,001–35,000
5	> 35,001

Points awarded	Number of documented cases of lead-poisoned children
2	< 100
4	100–249
6	250–499
8	500–999
10	> 1,000

Rating Factor 3: Soundness of Approach /Work Plan /Budget (55 points)

This factor addresses the quality and cost-effectiveness of your proposed work plan. Applicants should develop a work plan that includes specific, measurable, and time-phased objectives for each major program activity. The applicant's work plan should reflect benchmark standards for production, expenditures, and other activities that have been developed by the Office of Healthy Homes and Lead Hazard Control. These benchmark standards, as well as policy guidance on developing work plans have been included in the Appendices A and B to this NOFA and are available at the HUD website at: *http://www.hud.gov/offices/lead/lhc/pgi/index.cfm.* This policy guidance provides a sample format and outline for developing a Lead Hazard Reduction Demonstration Grant Program Work Plan. In addition, applicants are also required to complete the HUD Program Outcome Logic Model (HUD–96010) included in Appendix D of this NOFA. The Logic Model is to be used by grantees to assess their own performance.

(1) An applicant is to identify and describe specific methods, measures, and tools that you will use (in addition to HUD reporting requirements) to measure progress, evaluate program effectiveness, and identify program changes necessary to improve performance. Describe how you will obtain, document, and report the information. In evaluating this, HUD will consider how you have described outcome measures and benefits of your program including:

(a) How your program will be held accountable for meeting program goals, objectives, and the actions undertaken in implementing the grant program. Applicants should provide a description of the mechanism to assess progress and track performance in meeting the goals and objectives outlined in the work plan. Applicants should provide assurances that work plans and performance measures developed for the program will assist intended beneficiaries, and that work will be conducted in a timely and cost-effective manner.

(b) Applicants should describe the proposed activities and provide HUD with measurable outcome results to be achieved with the requested funds. Measurable outcome results should be stated in terms relevant to the purpose of the program funds as a direct result of the work performed within the performance period of the grant (*e.g.*, estimated number of units to be made lead-safe, estimated number of children living in units made lead-safe, and the basis for these estimates).

Each proposed activity must be eligible as described in the NOFA and meet statutory requirements for assistance to low- and very low-income persons.

(A) *Lead Hazard Control Work Plan Strategy* (40 points). Describe your work plan goals and specific time-phased strategy to complete work under the grant within the 42-month period of performance for your lead hazard control grant program. You should provide information on:

(1) *Implementing a Lead Hazard Control Program.* Describe how you will implement the strategy for your proposed lead hazard control program. The description must include information on:

(a) How the project will be organized, managed, and staffed. You must also identify the specific steps that will be taken to train and ensure the availability of enough lead-based paint contractors and workers to conduct lead hazard control interventions, and to perform other program activities. In addition, a detailed description of the selection process for sub-grantees, subcontractors or sub-recipients, and how assistance and funding will flow from the grantee to those who will actually perform the work under the grant.

(b) The overall number of eligible privately owned housing units scheduled for lead hazard control intervention work and the strategy for their identification, selection, prioritization, and enrollment in the selected target area(s). Discuss the eligibility criteria for unit selection and how the program will identify units that meet these criteria. Explain how referrals of eligible units will be obtained from childhood lead poisoning prevention programs, other health care or housing agencies, or health providers that serve children. Explain how you would target resources to maximize the return on investment from grant funding. As funding is a constraint for this program, it is imperative to maximize the impact of grant dollars. Include in this discussion your proposed technical approach and how this choice addresses local conditions and needs as well as attempting to maximize the number of children protected from lead hazards. As there are a variety of reduction techniques that grantees can apply to lead hazards, it is important that HUD be able to assess the effectiveness of grantees' choice of technical strategy. Also discuss how referrals are made from the Section 8/Housing Choice Voucher programs and other agencies that provide housing assistance to low-income households with children including CDBG, HOME Investment Partnerships Program-funded housing programs, or other sources. (Include as attachments any referral agreements, commitment letters or other documents from other entities that describe their participation recruiting eligible units in your program.)

(c) The degree to which the work plan focuses on eligible privately owned housing units occupied by low-income families with children under six years of age. Describe your planned approaches to control lead hazards in vacant and/or occupied units before children are poisoned and your plans to ensure that the program will continue to affirmatively market and match these units made lead-safe with low-income families with children under six years of age in the future. Discuss strategies to control lead hazards in units where children have already been identified with an elevated blood lead level (EBL), including your process for referring and tracking children with EBLs, and your capacity to rapidly complete lead hazard control work in their units. Provide estimates of the number of low-income children you will assist through this program.

(d) Discuss the lead hazard control financing strategy, including eligibility requirements, terms, conditions, dollar limits, and amounts available for lead hazard control work. Applicants must also describe how the program will recapture grant funds in the event that a recipient of grant funds fails to comply with any terms and conditions of the financing arrangement (*e.g.* affordability, sale of property, etc.). You must discuss the way assistance from the grant funds will be administered to or on behalf of property owners (*e.g.* use of grants, deferred loans and/or forgivable loans and the basis and schedule for forgiveness, and the role of other resources, such as private sector financing). You should identify the entity that will administer the financing process and describe how coordination and payment between the program and contractors performing the work will be accomplished. Describe matching

requirements, if any, proposed for assistance to rental property owners.

(e) Describe how your proposed program will satisfy the stated needs in the Consolidated Plan or Indian Housing Plan and eliminate impediments identified in the Analysis of Impediments (AI). Also describe how your proposed program will further and support the policy priorities of the Department: including promoting healthy homes and the quality of housing.

(2) *Technical Approach/Performance.* Describe your process for the conduct of lead hazard evaluation (risk assessments and/or inspections) in units of eligible privately owned housing to confirm that there are lead-based paint hazards in the housing units where lead hazard control is undertaken (*see* the Appendix A of this NOFA for Sample Worksheet 2).

(a) Describe your testing methods, schedule, and costs for risk assessments, paint inspections, and clearance examinations to be used. If you propose to use a more restrictive standard than the HUD/EPA thresholds (*e.g.*, less than 0.5 percent or 1.0 mg/square centimeter for lead in paint, or less than 40, 250, 400 μg/square foot for lead in dust on floors, sills and troughs, respectively); or 400 ppm in bare soil in children's play areas and 1200 ppm for bare soil in the rest of the yard), identify the standard(s) that will be used. All testing shall be performed in accordance with applicable regulations.

(b) Describe the lead hazard control methods and strategies you will undertake and the number of units you will treat. In cases where only a few surfaces have lead hazards in a specific unit and complete abatement of all lead paint is cost-effective, the applicant must provide a detailed rationale for selecting complete abatement as a strategy. Provide an estimate of the per unit costs (and a basis for those estimates) and a schedule for initiating and completing lead hazard control work in the selected units. Discuss efforts to incorporate cost-effective lead hazard control methods. Explain your cost estimates, providing detail on how the estimates were developed, with particular references to cost effectiveness.

(c) Schedule. Provide a realistic schedule for completing key activities, by quarter, so that all activities can be completed within the period of performance of the grant. Key production activities include enrollment of units, paint inspections/risk assessments, and completion/clearance of units. When developing the application, the applicant shall take into consideration previous experience and performance in administering similar kinds of lead hazard control or rehabilitation programs.

(d) Time frames. Describe the estimated elapsed time frame for treating a typical unit that will receive lead hazard control, including referral/intake, enrollment (qualification of the unit as eligible), combined paint inspection/risk assessments, preparation of specifications or work write-up, selection of the contractor, lead hazard control intervention work activities, quality control and monitoring of work activities, and clearance. The time frame should include an estimate of the staff and contractor time required to treat a typical unit that will receive lead hazard control. Describe the schedule for emergency referrals (*e.g.* unit occupied by a child under six years of age with an elevated blood lead level). List the number of units projected in each of the following categories: lead-based paint inspections/risk assessments, hazard control, and clearance inspections.

(e) Workflow and Production Control. Provide guidelines and/or flowcharts showing agency/partner responsibilities for each step in the process (from intake to clearance) and describe/show how coordination and hand-offs will be handled. Discuss how the actual production status of units, from intake to final clearance, will be monitored, and how and when production bottlenecks will be identified, remedied, and monitored.

(f) Describe your contracting process, including development of specifications or adoption of existing specifications for selected lead hazard control methods. Describe the management processes you will use to ensure the cost-effectiveness of your lead hazard control methods. Your application must include a discussion of the contracting process for the conduct of lead hazard control activities in the selected units, and requirements for coordination among lead hazard control, rehabilitation, weatherization, and other contractors.

(g) Describe your plan for occupant protection or the temporary relocation of the occupants of units selected for lead hazard control work. Describe any plan to avoid overnight relocation in small-scale projects consistent with 24 CFR 35.1345(a)(2) and HUD's Interpretive Guidance of 24 CFR part 35, including J24, R18, and R19 (*see http://www.hud.gov/offices/lead/guidelines/leadsaferule/index.cfm*). Your work plan should address the use of safe houses and other temporary housing arrangements, storage of household goods, stipends, incentives, etc. If families or individuals are temporarily relocated in a project which utilizes Community Development Block Grant funds, the guidance and requirements of 24 CFR 570.606(b)(2)(i)D(1)–(3) must be met. HUD recommends you review these regulations when preparing your proposal.

(h) Describe your strategy for involving neighborhood or grassroots faith-based or other community-based organizations in your proposed activities. Priority activities should include increasing the enrollment of eligible privately owned housing units to receive lead treatments, but may also include inspection (including dust lead testing) and the conduct of lead hazard control activities. HUD will evaluate the proposed level of substantive involvement of such organizations during the review process.

(i) Identify and discuss the specific methods you will use (in addition to HUD reporting requirements) to document activities, progress, program effectiveness, and how changes necessary to improve performance will be implemented. Describe how you will obtain, document, and report on information collected.

(j) If you are a current or prior grantee or you have also applied to the Fiscal Year 2003 Lead Hazard Control Grant Program Notice of Funding Availability, you must describe the actions you will take to ensure that your proposed lead hazard control work will occur concurrently with other ongoing HUD lead hazard control grant work. Your application must provide the detail necessary to assure HUD that you will implement the proposed work immediately and perform it concurrently with other ongoing lead hazard control grant work.

(B) *Budget.* (15 points) Describe your budget within the 42-month (or less) period of performance for your lead hazard control grant program. You should provide information on:

(1) *Allocation of Funds.* (5 points) You should describe your detailed total budget (total budget is the federal share and matching contribution) with supporting cost justifications for all budget categories of your grant request. The budget shall include not more than 10 percent for administrative costs and not less than 90 percent for direct project elements. You should describe how you intend to provide not less than 90 percent of the funds for abatement, inspections, risk assessments, temporary relocations, and interim control of lead-based hazards and what activities will be conducted with the remaining 10 percent.

(2) *Source/Use of Match Funds.* (10 points) Specify the amount, sources, and proposed use of the 25 percent

matching contribution, any additional resources, and how they will be provided (*i.e.*, by cash, by in-kind services, or personnel). If in-kind contributions are used, attribute a monetary value, provide the basis for the value of the contribution, and explain how the contributions will be used in the project. Each source of contributions should be made in a letter of commitment from the contributing entity, describing the contributed resources and the monetary value. Resources directly contributed by the applicant are considered to be committed and do not require letters. Evidence of firm commitments and the appropriate use of match resources is necessary for receiving maximum points in this rating factor. Matching contributions greater than the required 25 percent match will receive a higher rating for this subfactor.

Note on Program Performance: Grantees shall take all reasonable steps to accomplish all lead hazard control activities outlined in an approved work plan within the approved period of performance. HUD will closely monitor grantee performance with particular attention placed on the completion of the number of units in the grant agreement, the expenditure of HUD grant funds as evidenced by drawdowns from the Line of Credit Control System (LOCCS), and other established community education, outreach, and training objectives. HUD reserves the right to terminate the grant prior to the expiration of the period of performance if a grantee fails to meet established work plan benchmark milestones in implementing the approved program of activities.

VII. Application Submission Requirements

(A) Application Submission

(1) *Application Format.* The application narrative response to the Rating Factors is limited to a maximum of 15 pages (excluding appendices and worksheets). Your response must be typewritten on one side only on 8½″ x 11″ paper using a 12-point (minimum) font with not less than ¾″ margins on all sides. Appendices should be referenced and discussed in the narrative response. Materials provided in the appendices should directly apply to the rating factor narrative.

(2) *Application Checklist.* Your application must contain all of the required information noted in this Program Section and Section V of the General Section of the SuperNOFA. These items include the standard forms, certifications, and assurances listed in the General Section of the SuperNOFA that are applicable to this funding (collectively referred to as the ''standard forms''). The standard forms can be found in Appendix D of the General Section of the SuperNOFA. The program application items are:

(a) *Transmittal Letter.* The applicant (or applicants) submitting the application, the dollar amount requested, the number of units to receive lead hazard control work, what the program funds are requested for, the nature of involvement with grassroots faith-based or other community-based organizations, and the name, mailing address, telephone number, and principal contact person of ''the applicant.''

(b) Checklist and Submission Table of Contents (see Appendix A of this NOFA).

(c) *Abstract Summary.* An abstract summary describing the goals and objectives of your proposed program (two page maximum). The abstract should briefly highlight the major goals and objectives established for the program.

(d) *Budget.* A detailed budget (total budget is the federal share and matching contribution) with supporting cost justifications for all budget categories of your grant request. You must provide a separate estimate for the overall grant management element (Administrative Costs), which is more fully defined in Appendix B of this NOFA. The budget shall include not more than 10 percent for administrative costs and not less than 90 percent for direct project elements. In the event of a discrepancy between grant amounts requested in various sections of the application, the amount you indicate on the HUD Form-424 will govern as the correct value.

(e) *Matching Contribution.* An itemized breakout (using the HUD 424) of your required matching contribution, including:

(i) Values placed on donated in-kind services;

(ii) Letters or other evidence of commitment from donors; and

(iii) The amounts and sources of contributed resources.

(f) *Application Forms.* All forms as required by Section V (H) of the General Section of the SuperNOFA.

(g) *Grant Partners.* Contracts, Memoranda of Understanding or Agreement, letters of commitment, or other documentation describing the proposed roles of agencies, local broad-based task forces, participating grassroots faith-based or other community-or neighborhood-based groups or organizations, local businesses, and others working with the program (see Appendix A of this NOFA for Sample Worksheet 3—Grant Partners).

(h) *Consolidated Plan Element.* A copy of the lead hazard control element included in your current program year's Consolidated Plan. (This does not apply to Native American Tribes). You should include the discussion of any lead-based paint issues in your jurisdiction's Analysis of Impediments, particularly as it addresses your target areas. If you submitted an application for the recently published FY 2003 Lead Hazard Control Grant Program Notice of Funding Availability, you may refer to this material for proof of documentation. You are not required to resubmit this material for this NOFA.

(i) *Rating Factor Response.* Narrative responses to the rating factors.

(B) *Proposed Activities.* Unless otherwise noted in this NOFA, all applicants must, at a minimum, describe the proposed activities in the narrative responses to the rating factors. Your narrative statement must be numbered in accordance with each factor for award. Please see Section V of the General Section of the SuperNOFA for additional requirements and submittal procedures.

(C) *Applicant Debriefing. See* Section XI (A)(4) of the General Section of the SuperNOFA for information about applicant debriefing.

VIII. Correction to Deficient Applications

See Section VIII of the General Section of the SuperNOFA for information about corrections to deficient applications.

IX. Environmental Requirements

(A) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. in the Office of the General Counsel, Regulations Division, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

(B) *Environmental Requirements.* Recipients of lead hazard reduction demonstration grants must comply with 24 CFR part 58—''Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.'' Recipients are prohibited from committing or expending HUD and non-HUD funds on the project until HUD approves the recipient's Request for Release of Funds (form HUD 7015.15) or the recipient has

determined that the activity is either Categorically Excluded, not subject to the related federal laws and authorities pursuant to 24 CFR 58.35(b), or Exempt pursuant to 24 CFR 58.34. For part 58 procedures, *see http://www.hud.gov/offices/cpd/energyenviron/environment/index.cfm.* For assistance, contact Karen Choi, the Office of Healthy Homes and Lead Hazard Control Environmental Officer at (213) 894–8000, extension 3015 (this is not a toll-free number) or the HUD Environmental Review Officer in the HUD field office serving your area. If you are a hearing- or speech-impaired person, you may reach the telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. Recipients of a grant under this funded program will be given additional guidance in these responsibilities.

HUD Reform Act of 1989. The provisions of the HUD Reform Act of 1989 that apply to this NOFA are explained in the General Section of the SuperNOFA at Section XI (A) Public Access, Documentation and Disclosure Requirements.

(C) *Paperwork Reduction Act Statement.*

The information collection requirements in this NOFA have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB number is 2539–0015. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(D) *Catalog of Federal Domestic Assistance Numbers.* The Federal Domestic Assistance Number for this program is 14.905.

Dated: June 25, 2003.

David Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

Appendix A

Appendix A contains the Checklist and Submission Table of Contents and sample worksheets to assist you in your response to specific information requested in this NOFA. The submission of these worksheets is not mandatory, but has been developed to reduce the applicant's burden on providing this information.

Appendix B

The description of Administrative Costs, Eligibility of HUD-Assisted Housing, Section 1011 of Title X, Elements of a State Certification Program, and Work Plan Guidance.

Appendix C

The top 100 areas ranked by the number of pre-1940 rental housing units as determined by the year 2000 U.S. Census.

Appendix D

The required forms for application submission.

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Appendix A.

Checklist and Submission Table of Contents
Lead Hazard Reduction Demonstration Grant

The following checklist is provided to ensure you have submitted all required items to receive consideration for funding. You must assemble the application in the order shown below and note the corresponding page number where the response is located. **You must include this checklist and submission table of contents with the proposal.**

☐	**Transmittal Letter**	Cover page
☐	**Checklist and Submission Table of Contents**	_____
☐	**Applicant Abstract (limited to a maximum of 2 pages)**	_____
☐	**Application Forms**	
☐	HUD Form-424	_____
☐	HUD Form-424B	_____
☐	HUD Form-424C	
☐	HUD Form 424-CB	_____
☐	HUD Form-424-CBW, Total Budget (Federal Share and Matching)	_____
☐	HUD Form-2880 Disclosure and Update Report	_____
☐	HUD Form-2990 Certification of Consistency with the EZ/EC Strategic Plan	_____
☐	HUD Form-2991 Certification of Consistency with the Consolidated Plan	
☐	HUD Form 2993	
☐	HUD Form 2994 (Optional)	
☐	HUD Form 23004	
☐	HUD Form 27061	
☐	HUD Form 96010	_____
☐	Form SF-LLL Disclosure of Lobbying Activities Required	
	☐ Form SF-LLL Not Required	_____
	Threshold Requirements	_____
☐	25 percent Matching Contribution (correctable deficiency)	
☐	The number of documented cases of lead-poisoned children	_____
		_____
	Rating Factor Response (limited to a maximum of 15 pages)	_____
☐	1. Capacity of the Applicant and Relevant Organizational Experience	_____
☐	2. Demonstrated Need/Extent of Problem	
☐	3. Soundness of Approach/Work Plan/Budget	_____

OMB Approval Number 2539-0015 (exp 1/31/2006)

Sample Worksheet 1 - Key Personnel			
Name and Position Title (please include the organization position titles in addition to those shown)	**Percent of Time Proposed for this Grant**	**Percent of Time to be spent on other LHC HUD grants**	**Percent of time to be spent on other activities**
	Note: These three columns should total 100%		
Overall Project Director			
Day-to-Day Program Manager			

OMB Approval Number 2539-0015 (exp 1/31/2006)

Sample Worksheet 2 - Anticipated Lead Hazard Control Activities				
Activity	**Who Will Perform This Activity? Identify** (In-house, contractor, grassroots faith-based or other community-based non-profit organization, etc.)	**Number of Units**	**Estimated Time to Complete Work for each unit (hours, days, weeks)**	**Estimated Unit Cost**
Lead-Based Paint Inspections				
Lead-Based Paint Risk Assessments				
Interim Controls (Low Level Interventions, Specialized Cleaning, and Paint Stabilization)				
Hazard Abatement				
Clearance Inspections				

OMB Approval Number 2539-0015 (exp 1/31/2006)

Sample Worksheet 3 - Grant Partners

Partner Name	Type of Organization or Program	Description of Commitment	Proposed Activities To Be Conducted by Partner	Resource and Match Commitment ($ Value for Services Provided)

Partner Name: Name of organization or entity that will partner with applicant in conducting LHC activities.

Type of Organization or Program: Health, Housing, Environmental, Community Development Department, Grassroots Faith-Based or Other Community-Based Organization, Childhood Lead Poisoning Prevention Program, Financial Institutions, Job Training, and Economic Opportunity Organizations, etc.

Description of Commitment: Memorandum of Understanding/Agreement, Contract, Sub-grant, Letter, etc.

Proposed Activities to be Conducted by Partner: The type of activities that will be conducted by the grant partner in support of LHC efforts (i.e. rehabilitation, testing, training, education and outreach, specification writing, relocation, etc.)

Resource and Match Commitment Contributed by Partner: The value of any contributed resource by the grant partner (includes in-kind or cash in support of the grant program).

WORK PLAN DEVELOPMENT WORKSHEET
WITH MINIMUM BENCHMARK PERFORMANCE STANDARDS
FOR 42-MONTH PERIOD OF PERFORMANCE

Benchmark Standards Worksheet for a 42-month program															OMB Approval Number 2539-0015 (exp 1/31/2006)
Grant Number:		**Grantee Organization:**									**Period of Performance: September 30, 2003 - March 29, 2007**				
	Q1 2003	Q2 2004	Q3 2004	Q4 2004	Q5 2004	Q6 2005	Q7 2005	Q8 2005	Q9 2005	Q10 2006	Q11 2006	Q12 2006	Q13 2006	Q14 2007	Q15 2007
ACTIVITY	Oct -Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr-Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun
Applicant Capacity(0-180 days)															
Staff Hired															
Approved Environmental Review and Release of Funds															
Written Policies and Procedures															
Lead Hazard Control Implementation Units in Grant Agreement = #															
Paint Inspections/Risk Assessments:															
Performance Standard			5%	15%	25%	35%	45%	55%	65%	75%	85%	95%	100%		
Work Plan Milestone															
% Planned															
Actual # Completed															
Actual % Completed															
*** Units in Progress*															
Units Completed and Cleared:															
Performance Standard				2%	5%	15%	30%	45%	55%	65%	75%	85%	95%	100%	
Work Plan Milestone															
% Planned															
Actual # Completed															
Actual % Completed															
Cumulative LOCCS DRAWDOWNS Grant Award Amount = $															
Performance Standard					5%	10%	15%	20%	30%	40%	50%	60%	80%	95%	100%
LOCCS Drawdown Work Plan Milestone															
% Planned															
Actual LOCCS Drawdown															
Actual Cumulative LOCCS Drawdown %															
Community Outreach / Education / Training															
Community Outreach and Education Work Plan Milestone															
Community Outreach and Education Milestone Achieved															
Skills Training Work Plan Milestone															
Skills Training Milestone Achieved															
Performance Measured Against Approved Work Plan Milestones														100%	
Close-Out March 30 - June 29, 2007															

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Appendix B

(A) Administrative Costs

I. Purpose

The intent of this HUD grant program is to allow the Grantee to be reimbursed for the reasonable direct and indirect costs, subject to a top limit, for overall management of the grant. In most instances the grantee, whether a state or a local government, principally serves as a conduit to pass funding to sub-grantees, which are to be responsible for the conducting lead-hazard reduction work. Congress set a top limit of 10 percent of the total grant sum for the grantee to perform the function of overall management of the grant program, including passing on funding to sub-grantees. The cost of that function, for the purpose of this grant, is defined as the ''administrative cost'' of the grant, and is limited to 10 percent of the total grant amount. The balance of 90 percent or more of the total grant sum is reserved for sub-grantees or other direct-performers of lead-hazard identification and reduction work. Lead hazard identification and reduction includes, but is not necessarily limited to outreach, training, enrollment, lead paint inspection/risk assessments, interim controls, hazard abatement, clearance documentation, blood lead testing, and public education.

II. Administrative Costs: What They Are Not

For purposes of this HUD grant program, the term ''administrative costs'' should not be confused with the terms ''general and administrative cost,'' ''indirect costs,'' ''overhead,'' and ''burden rate.'' These are accounting terms usually represented by a government-accepted standard percentage rate. The percentage rate allocates a fair share of an organization's costs that cannot be attributed to a particular project or department (such as the chief executive's salary or the costs of the organization's headquarters building) to all projects and operating departments (such as the Fire Department, the Police Department, the Community Development Department, the Health Department, or this program). Such allocated costs are added to those projects' or departments' direct costs to determine their total costs to the organization.

III. Administrative Costs: What They Are

For the purposes of this HUD grant program, *''Administrative Costs'' are the grantee's allowable direct costs for the overall management of the grant program.* The allowable limit of such costs that can be reimbursed under this program is 10 percent of the total grant sum. The grantee should pay particular attention to accurately estimating costs, determining the necessity for and reasonableness of costs, and correctly computing all budget items and totals. Should the grantee's actual costs for overall management of the grant program exceed 10 percent of the total grant sum, those excess costs shall be paid for by the grantee. However, excess costs paid for by the grantee may be shown as part of the requirement for cost-sharing funds to support the grant. Indirect costs must be substantiated and approved by the appropriate federal agency or the grantee must provide an indirect cost rate plan. The indirect cost rate should be indicated in your budget. Grantees should also provide a narrative statement indicating how you arrived at your costs. When possible, you should use quotes from vendors or historical data. You must support all direct labor and salaries with mandated city/state pay scales or other documentation.

IV. Administrative Costs: Definition

A. General

Administrative costs are the allowable, reasonable, and necessary direct costs related to the overall management of the HUD grant for lead-hazard reduction activities. Those costs shall be segregated in a separate cost center within the grantee's accounting system, and they are eligible costs for reimbursement as part of the grant, subject to the 10 percent limit. Such administrative costs do not include any of the staff and overhead costs directly arising from specific sub-grantee program activities eligible under Section III (C) of this NOFA, because those costs are eligible for reimbursement under a separate cost center as a direct part of project activities.

The grantee may elect to serve solely as a conduit to sub-grantees, who will in turn perform the direct program activities eligible under this NOFA, or the grantee may elect to perform all or a part of the direct program activities in other parts of its own organization, which shall have their own segregated, cost centers for those direct program activities. In either case, not more than 10 percent of the total HUD grant sum may be devoted to administrative costs, and not less than 90 percent of the total grant sum shall be devoted to the direct delivery of program activities. The grantee shall take care not to mix or attribute administrative costs to the direct project cost centers.

B. Specific

Reasonable costs for the grantee's overall grant management, coordination, monitoring, and evaluation are eligible administrative costs. Subject to the 10 percent limit, such costs include, but are not limited to, necessary expenditures for the following goods, activities and services:

(1) Salaries, wages, and related costs of the grantee's staff, the staff of affiliated public agencies, or other staff engaged in grantee's overall grant management activities. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program for each person whose primary responsibilities (more than 65 percent of their time) with regard to the grant program involve direct overall grant management assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes any overall grant management assignments. The grantee may use only one of these two methods during this program. Overall grant management includes the following types of activities:

(a) Preparing grantee program budgets and schedules, and amendments thereto;

(b) Developing systems for the selection and award of funding to sub-grantees and other sub-recipients;

(c) Developing suitable agreements for use with sub-grantees and other sub-recipients to carry out grant activities;

(d) Developing systems for assuring compliance with program requirements;

(e) Monitoring sub-grantee and sub-recipient activities for progress and compliance with program requirements;

(f) Preparing presentations, reports, and other documents related to the program for submission to HUD;

(g) Evaluating program results against stated objectives;

(h) Providing local officials and citizens with information about the overall grant program; however, a more general education program, helping the public understand the nature of lead hazards, lead hazard reduction, blood-lead screening, and the health consequences of lead-poisoning is a direct project support activity;

(i) Coordinating the resolution of overall grant audit and monitoring findings; and

(j) Managing or supervising persons whose responsibilities with regard to the program include such assignments as those described in paragraphs (a) through (i).

(2) Travel costs incurred for official business in carrying out the overall grant management;

(3) Administrative services performed under third party contracts or agreements, for services directly allocable to grant management such as: legal services, accounting services, and audit services;

(4) Other costs for goods and services required for, and directly related to, the overall management of the grant program; and including such goods and services as telephone, postage, rental of equipment, renter's insurance for the program management space, utilities, office supplies, and rental and maintenance (but not purchase) of office space for the program;

(5) The fair and allocable share of grantee's general costs that are not directly attributable to specific projects or operating departments such as salaries, office expenses, and other related costs for local officials (*e.g.*, mayor and city council members, etc.), and expenses for a city's legal or accounting department which are not charged back to particular projects or other operating departments. If a grantee has an established burden rate, it should be used; if not, the grantee shall be assigned a negotiated provisional burden rate, subject to final audit.

(B) *Eligibility of HUD-Assisted Housing.* Eligibility of HUD-associated ''eligible'' housing units to participate under HUD's Lead Hazard Reduction Demonstration Grant Program:

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Program	Eligible?	Program	Eligible?
Housing Components of Community Planning & Development Programs		Housing in Military Impacted Areas (Section 238)	Yes
Community Development Block Grants (Entitlement)	Yes	Single Family Home Mortgage Coinsurance (Section 244)	Yes
Community Development Block Grants (Non-Entitlement) for States and Small Cities	Yes	Graduated Payment Mortgages (Section 245)	Yes
Community Development Block Grants (Section 108 Loan Guarantee)	Yes	Adjustable Rate Mortgages (ARMs) (Section 251)	Yes
Special Purpose Grants	Yes	Manufactured Homes (Title I)	Yes
The **Home** Program: **HOME** Investment Partnerships	Yes	**Housing - Multifamily Programs**	
HOPE for Homeownership of Single Family Homes	Yes	Rent Supplements (Section 101)	No
Shelter Plus Care - Sponsor-based Rental Assistance	No	Multifamily Rental Housing (Section 207)	Yes
Shelter Plus Care - Tenant-based Rental Assistance	Yes	Cooperative Housing (Section 213)	Yes
Shelter Plus Care - Project-based Rental Assistance	No	Mortgage and Major Home Improvement Loan Insurance for Urban Renewal Areas (Section 220)	Yes
Shelter Plus Care - SRO Rental Assistance	No	Multifamily Rental Housing for Moderate-Income Families - Section 221(d)(3)	No
Single Family Property Disposition Homeless Initiative	No	Multifamily Rental Housing for Moderate-Income Families - Section 221(d)(4)	Yes
Emergency Shelter Grants	Yes	Existing Multifamily Rental Housing (Section 223(f))	Yes
Housing Opportunities for Persons With AIDS (HOPWA)	Yes	Supplemental Loans for Multifamily Projects (Section 241)	Yes
Surplus Properties (Title V)	No	Supportive Housing for Persons with Disabilities (Section 811)	No
Supportive Housing Demonstration Program Transitional Housing Component	Yes	**HOPE 2**: Homeownership of Multifamily Units (Title IV)	No
Supportive Housing Demonstration Program Permanent Housing Component	Yes	Low-Income Housing Preservation and Resident Homeownership (Title VI)	No
Supplemental Assistance for Facilities to Assist the Homeless (SAFAH)	Yes	Emergency Low-Income Housing Preservation (Title II)	No
Supportive Housing Program	Yes	Flexible Subsidy (Section 201)	No
Section 8 SRO Mod Rehab for Homeless Individuals	No	**Public and Indian Housing**	
Innovative Demonstration Program	Yes	Section 8 Project-Based Certificate Program	No
Housing - Single Family Programs		Section 8 Tenant-Based Certificate and Voucher Program	Yes
One- to Four-Family Home Mortgage Insurance (Section 203(b) and (i))	Yes	Section 8 Moderate Rehabilitation Program	No
Rehabilitation Mortgage Insurance (Section 203(k))	Yes	Public Housing Development	No
Homeownership Assistance for Low- and Moderate-Income Families (Section 221(d)(2))	No	Public Housing Operating Subsidy	No
Homes for Service Member (Section 222)	Yes	Public Housing Modernization (Comprehensive Grant Program)	No
Housing in Declining Neighborhoods (Section 223(e))	Yes	Public Housing Modernization (Comprehensive Improvement Assistance Program)	No
Condominium Housing (Section 234)	Yes	Indian Housing Block Grant Program*	Yes
		Native American Housing Assistance and Self-Determination Act Title IV program*	Yes
		Section 184 Loan Guarantee Program*	Yes

* Funds awarded under this NOFA may not be used to purchase privately owned homes. Funds awarded under this NOFA may only be used for the eligible activities listed in this NOFA.

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(C) Section 1011 of Title X

Section 217 of Public Law 104–134 (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, 110 Stat. 1321, approved April 26, 1996) amended Section 1011(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) to read as follows:

Section 1011 Grants for Lead-Based Paint Hazard Reduction in Target Housing

(a) *General Authority.* The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is

not federally-assisted housing, federally-owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

(1) For grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level, and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

(2) For grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

(3) Notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.

(D) Elements of a State Certification Program

To be eligible to receive a Lead-Based Paint Hazard Control grant, an applicant must be a state, tribal, or local (city or county) government. State government and Native American tribal applicants must have an EPA approved state program for certification of lead-based paint contractors, inspectors, and risk assessors in accordance with 40 CFR 745.

Background

In October 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992). Congress assigned federal responsibility to the Environmental Protection Agency (EPA) for the definition, implementation, and oversight of state and Tribal Certification Programs for workers, contractors, and inspectors engaged in the detection and reduction of lead-based paint hazards. This legislation required EPA to develop regulations on accreditation of training programs, the certification of contractors, and the training of workers engaged in lead-based paint activities. In addition, EPA was directed to issue work practice standards. Under the statute, lead-based paint activities are defined as:

- In the case of target housing: risk assessment, inspection, and abatement; and
- In the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure: identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

On August 29, 1996, EPA promulgated a final regulation that established requirements for lead-based paint activities in Target Housing and Child Occupied Facilities.

- 40 CFR part 745, subpart L addressed the requirements for the certification of individuals and the accreditation of training programs as well as work practice standards.
- 40 CFR part 745, subpart Q addresses the procedures and requirements for the approval of state programs that would be administered and enforced in lieu of the federal program in that state.
- 40 CFR 745.325 and 745.327 establish the minimum programmatic and enforcement elements that a program must have in order to be authorized. States had until August 30, 1998, to receive authorization from the Agency. After that date, EPA will administer the federal program in that state.

Any state or Tribe applying for a HUD Lead-Based Paint Hazard Control Grant must have implemented legislation and programs that fulfills the requirements of 40 CFR 745.325 and 327 and received EPA authorization for such a program. States and Tribes should be aware that HUD will not award grants for lead-based paint hazard evaluation or reduction to states without an EPA authorized program under section 404 of the Toxic Substances Control Act. An EPA administered training and certification program established in the place of an approved state program does not satisfy the requirement for a state applicant to have a federally-authorized state program. State or Tribal applicants must have received EPA authorization for their program as of the date the Lead-Based Paint Hazard Control Grant program applications are due at HUD. State and Tribal applicants should coordinate with the appropriate EPA Region to ensure their application for an authorized program is approved by the due date for the grant applications. All local government applicants will be required to use performers certified by their state or the EPA to perform lead hazard control work in their state.

Questions regarding the EPA authorization process should be directed to your EPA Regional Lead Coordinator.

BILLING CODE 4210–70–P

(E) Work Plan Guidance.

The work plan shall be submitted to the Government Technical Representative (GTR) and shall consist of the goals and specific time-phased objectives established for each of the major activities and tasks required to implement the program. These major activities and tasks are outlined in the Quarterly Progress Reporting System (Form-HUD-96006) and include: (1) Program Management and Capacity Building including data collection and program evaluation; (2) Community Education, Outreach, and Training; and (3) Lead Hazard Activities including testing, interventions conducted, and relocation.

NOTE: Approval of the work plan by the GTR and HUD approval of the Release of Funds Request (HUD Form 7015.15) are required prior to conducting lead hazard control intervention work in homes.

The work plan narrative shall include:

- ❑ The management plan that describes how the project will be managed, and the timeline for staffing the program, establishing a lead-based paint contractor pool, and obtaining HUD approval for the Release of Funds Request (HUD Form 7015.15);
- ❑ A detailed description of how assistance and funding will flow from the grantee to the actual performers of the hazard reduction work;
- ❑ The selection process for sub-grantees, sub-contractors and/or sub-recipients;
- ❑ The identification, selection, and prioritization process for the particular properties where lead hazard control interventions are to be conducted;
- ❑ *A description of the financing mechanism used to support lead hazard control work in units (name of administering agency, eligibility requirements, type of financing (grant, forgivable or deferred loans, private sector financing, etc.), any owner contribution requirement, and the terms, conditions, and amounts of assistance available (include affordability terms and forgiveness and recapture of funds provisions);
- ❑ The inspection/risk assessment testing procedures using EPA standards to identify lead hazards and to conduct clearance testing. ***(Dust wipe samples, soil samples, and any paint samples to be analyzed by a laboratory must be analyzed by a laboratory recognized by the EPA National Lead Laboratory Accreditation Program (NLLAP))***;
- ❑ *The process for developing work specifications and bids on properties selected for lead hazard control;

- The levels of intervention and clearance procedures to be conducted for units enrolled;
- The number of rental-occupied, vacant, and owner-occupied units proposed for each intervention level;
- The relocation plan that will be carried out for residents required to be out of their homes during hazard control activities;
- The education, outreach, and training activities to be undertaken by the program;
- The blood lead testing and other health measures to be undertaken to protect children and other occupants of units undergoing lead hazard control work; and
- The evaluation process used to measure program performance.

*To be added as amendment to Work Plan Policy Guidance Issuance 2001-03

Objectives and Milestones

Specific and measurable performance objectives and milestones to be developed in support of the work plan narrative include:

- The overall objectives for lead hazard control activities including the total number of lead hazard evaluations, units projected to be completed and cleared, and the expenditure of federal grant funds (HUD Agreement HUD-1044). Quarterly performance milestones are to be developed to achieve the overall objectives for these activities;

- The overall objectives for community education, outreach, and training activities. Quarterly performance milestones are to be developed to achieve the overall objectives for these activities;

- Performance benchmarks for 36- and 42-month grants have been developed. These benchmarks are included in Appendix A and can also be found on the HUD website at: http://www.hud.gov/offices/lead/grantfrm/hudgrantee.cfm

  Development of your work plan should include and reflect these benchmark standards.

Appendix C

The top 100 areas ranked by the number of pre-1940 rental housing units as determined by the year 2000 U.S. Census.

Rank		State	Renter; 1939 or earlier
1	New York	New York	736,976
2	Chicago	Illinois	219,793
3	Los Angeles	California	116,034
4	San Francisco	California	103,651
5	Philadelphia	Pennsylvania	86,497
6	Boston	Massachusetts	75,187
7	Detroit	Michigan	42,808
8	Cleveland	Ohio	41,570
9	Milwaukee	Wisconsin	39,095
10	Baltimore	Maryland	37,802
11	Washington	District of Columbia	37,018
12	Seattle	Washington	34,461
13	Buffalo	New York	34,377
14	St. Louis	Missouri	31,874
15	New Orleans	Louisiana	31,401
16	Minneapolis	Minnesota	30,004
17	Pittsburgh	Pennsylvania	27,588
18	Portland	Oregon	27,427
19	Cincinnati	Ohio	27,235
20	Rochester	New York	25,001
21	Oakland	California	24,703
22	Jersey City	New Jersey	23,771
23	Denver	Colorado	22,676
24	Columbus	Ohio	19,447
25	Indianapolis	Indiana	18,386
26	San Diego	California	17,893
27	Providence	Rhode Island	16,917
28	Long Beach	California	16,666
29	Newark	New Jersey	16,235
30	Houston	Texas	16,149
31	St. Paul	Minnesota	15,642
32	Worcester	Massachusetts	15,279

33	Louisville	Kentucky	14,083
34	Syracuse	New York	13,501
35	Cambridge	Massachusetts	13,485
36	Toledo	Ohio	12,589
37	Atlanta	Georgia	12,233
38	Albany	New York	11,924
39	Omaha	Nebraska	11,902
40	Richmond	Virginia	10,852
41	Dallas	Texas	10,718
42	Yonkers	New York	10,566
43	Grand Rapids	Michigan	10,534
44	Springfield	Massachusetts	9,968
45	Akron	Ohio	9,883
46	San Antonio	Texas	9,602
47	Hartford	Connecticut	9,449
48	Memphis	Tennessee	9,100
49	Salt Lake City	Utah	9,079
50	Manchester	New Hampshire	8,961
51	Spokane	Washington	8,945
52	Portland	Maine	8,747
53	Sacramento	California	8,710
54	Dayton	Ohio	8,364
55	Bridgeport	Connecticut	8,285
56	Erie	Pennsylvania	8,028
57	Tacoma	Washington	7,486
58	Miami	Florida	7,485
59	Scranton	Pennsylvania	7,440
60	Madison	Wisconsin	7,307
61	Oklahoma City	Oklahoma	7,001
62	Schenectady	New York	6,801
63	Pawtucket	Rhode Island	6,770
64	Allentown	Pennsylvania	6,636
65	Des Moines	Iowa	6,403
66	Pasadena	California	6,382
67	Utica	New York	6,266
68	San Jose	California	6,111
69	Trenton	New Jersey	6,080
70	Nashville-Davidson	Tennessee	6,023
71	Wichita	Kansas	5,639
72	Birmingham	Alabama	5,585
73	Glendale	California	5,550
74	Lancaster	Pennsylvania	5,402

75	Phoenix	Arizona	5,382
76	Fort Wayne	Indiana	5,306
77	Lincoln	Nebraska	5,304
78	Fort Worth	Texas	5,281
79	Tulsa	Oklahoma	5,257
80	Jacksonville	Florida	5,199
81	Norfolk	Virginia	5,137
82	Tampa	Florida	5,082
83	San Juan	Puerto Rico	5,074
84	El Paso	Texas	4,912
85	Colorado Springs	Colorado	4,674
86	Alameda	California	4,618
87	Austin	Texas	4,370
88	St. Petersburg	Florida	4,282
89	Honolulu CDP	Hawaii	4,238
90	Tucson	Arizona	4,229
91	Fresno	California	4,101
92	Lexington-Fayette	Kentucky	4,047
93	Burlington	Vermont	3,947
94	Wilkes-Barre	Pennsylvania	3,705
95	Bethlehem	Pennsylvania	3,705
96	Flint	Michigan	3,685
97	Charleston	South Carolina	3,640
98	Springfield	Missouri	3,544
99	Peoria	Illinois	3,360
100	Youngstown	Ohio	3,288

Appendix D

This appendix to this NOFA contains the list of the standard forms, certifications, and assurances used by the programs that are part of this NOFA. The listed forms are attached to this Appendix.

The HUD standard forms, certifications, and assurances are:

- Disclosure of Lobbying Activities (**SF-LLL**);
- Application for Federal Assistance (**HUD-424**);
- Budget Summary for Competitive Grant Programs (**HUD-424C**);
- Applicant Assurances and Certifications (**HUD-424B**);
- Grant Application Detailed Budget (**HUD-424-CB**);
- Grant Application Detailed Budget Worksheet (**HUD-424-CBW**);
- Applicant/Recipient Disclosure/Update Report (**HUD-2880**);
- Certification of Consistency with RC/EZ/EC Strategic Plan (**HUD-2990**) if applicable;
- Certification of Consistency with the Consolidated Plan (**HUD-2991**) if applicable;
- Acknowledgment of Application Receipt (**HUD-2993**);
- Client Comments and Suggestions (**HUD 2994**) (Optional);
- Survey on Ensuring Equal Opportunity for Applicants (**HUD-23004**);
- Race and Ethnic Data Reporting Form (**HUD-27061**); and
- Program Outcome Logic Model (**HUD-96010**).

HUD has consolidated many of its application forms into a single HUD-424 form. The new HUD-424 consolidates budget-reporting forms for both construction and non-construction projects into a single form and eliminates having to have the following separate certifications: Certification for a Drug-Free Workplace (HUD-50070), the Certification of Payments to Influence Federal Transactions (HUD-50071), and the Certification Regarding Debarment and Suspension (HUD-2992).

New form HUD-424 replaces SF-424 and HUD-424 M

HUD-424 B replaces SF-424 B and D and HUD-50070, 50071 and 2992

HUD-424 C and CB replaces SF-424 A and C

The HUD-424 CBW is added as a common detailed Budget Worksheet and replaces various budget worksheets used throughout the Department.

[FR Doc. 03–16593 Filed 6–26–03; 3:04 pm]
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Federal Register

Tuesday,
July 1, 2003

Part V

Environmental Protection Agency

40 CFR Part 180

Pesticide Tolerance Nomenclature Changes; Technical Amendments; Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0043; FRL–7308–9]

Pesticide Tolerance Nomenclature Changes; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document makes minor revisions to the terminology of certain commodity terms listed under 40 CFR part 180, subpart C. EPA is taking this action to establish a uniform listing of commodity terms.

DATES: This regulation is effective July 1, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0043, must be received on or before September 2, 2003.

FOR FURTHER INFORMATION CONTACT: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9368; fax number: (703) 308–9368; e-mail address: *jamerson.hoyt@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturer (NAICS 311)
- Pesticide manufacturer (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0043. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access an electronic copy of the commodity data base entitled *Food and Feed Commodity Vocabulary* go to: *http://www.epa.gov/pesticides/foodfeed/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary data base entitled ''Food and Feed Commodity Vocabulary.'' The data base was developed to consolidate all the major OPP commodity vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use the ''preferred commodity term'' as listed in the aforementioned data base. This is the third in a series of documents revising the terminology of commodity terms currently in tolerances in 40 CFR part 180. Final rules, revising pesticide tolerance nomenclature, were published in the **Federal Register** on June 19, 2002 (67 FR 41802) (FRL–6835–2) and June 21, 2002 (67 FR 42392) (FRL–7180–1).

In the **Federal Register** of April 17, 2003, (68 FR 18935) EPA issued a proposed rule proposing to make minor revisions to the terminology of certain commodity terms used in tolerances in 40 CFR part 180, subpart C, to establish a uniform listing of commodities. There were no comments received in response to the proposed rule.

This revision process will establish a uniform presentation of existing commodity terms under 40 CFR part 180.

A. What Action is the Agency Taking?

In this rule, EPA is making the following format changes to a the terminology of the commodity terms in 40 CFR part 180 to the extent the terminology is not already in this format:

1. The first letter of the commodity term is capitalized. All other letters, including the first letter of proper names, are changed to lower case.

2. Commodity terms are listed in the singular although there are the following exceptions: ''leaves'', ''roots'', ''tops'', ''greens'', ''hulls'', ''vines'', ''fractions'', ''shoots'', and ''byproducts''.

3. Commodity terms are amended so that generic terms, such as ''corn'' and ''pea'', precede modifying terms, such as ''field'', ''dry'' and ''summer''.

4. Abbreviated terms are replaced with the appropriate commodity terms. Examples: ''K=CWHR)'' is replaced with ''kernel plus cob with husks removed'' and ''POST-H'' is replaced with ''postharvest''.

5. Parenthesis are replaced with commas. Example: ''Cherry (sweet), postharvest'' is replaced with ''Cherry, sweet, postharvest''.

6. Crop group terms are revised to standardize with the ''Food and Feed Vocabulary''. Examples:

i. ''Legume vegetables (succulent or dried) group'', ''Legume vegetable group (dry and succulent), and ''Legume vegetables'' are replaced with ''Vegetable, legume, group 6''.

ii. ''Fruit, stone (cherry, peach, plum, prune) group'' is replaced with ''Fruit, stone, group 12''.

iii. ''Grass forage, fodder and hay'' and ''Grass, forage, fodder, and hay'' are replaced with ''Grass, forage, fodder and hay group 17''.

iv. ''Herbs and spices'' is replaced with ''Herb and spice group 19''.

B. Additional Changes

In addition to format changes to the commodity terms, this document also includes many revisions to the commodity terms. These revisions replace certain commodity terms that are no longer used by EPA with the appropriate matching term in the ''Food and Feed Commodity Vocabulary''. For example, ''Clover, green'' is replaced with ''Clover, forage'', ''Peanut vines'' is replaced with ''Peanut, hay'', ''Swine, meat'' is replaced with ''Hog, meat'', and ''Bushnuts'' is replaced with ''Nut, macadamia''.

This document also deletes certain terms that are not needed to identify the tolerance commodities. Examples:

i. The term ''preharvest'' (''pre-H'' or ''(PRE-H)'') is not needed since tolerances and exemptions established under part 180 apply to residues from only preharvest application, unless otherwise specified, in accordance with 40 CFR 180.1(i).

ii. The term ''preslaughter'' (''(PRE-S)'' or ''(PRE-S appli)'') is not needed since tolerances and exemptions established under part 180 apply to residues from preslaughter application to livestock, unless otherwise specified.

iii. The terms ''nutmeat'' and ''nutmeats'' when used in association with the tree nut crops or peanut are not needed. For tree nut crops, nutmeat and almond hulls are the only edible portions of the crop consumed. Therefore, OPP's Food and Feed Commodity Vocabulary uses the commodity terms ''Almond'', ''Pecan'', ''Walnut'', etc. for the tree nuts and the commodity term ''Peanut'' is used in place of ''Peanut, nutmeat''. Since ''almond hulls'' are fed to livestock, tolerances may be established for ''Almond, hulls''.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object '' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0043 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 2, 2003.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0043, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the

requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Statutory and Executive Order Reviews

This final rule makes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final 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). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) 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 impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. 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 action proposes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations. This technical amendment will not have any negative economic impact on any entities, including small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this final rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This final rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

V. Congressional Review Act

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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: June 26, 2003.

James Jones

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. In 180.491, the table to paragraph (a)(3) is revised to read as follows:

§ 180.491 Propylene oxide; tolerances for residues.

(a) * * *

(3) * * *

Commodity	Parts per million
Cocoa bean, bean	300
Gum, edible	300
Nutmeat, processed, except peanuts	300
Spices, processed	300

§ 180.495 [Amended]

■ 3. In § 180.495, the table to paragraph (a) is amended by changing the entry ''Poultry, eggs'' to read ''Egg'' and by realphabetizing the entry into the table.

Subpart C—[Amended]

■ 4. Subpart C is amended as follows:

■ i. By removing the following terms wherever they appear in subpart C:

a. (Pre-H)
b. pre-H
c. (PRE-H)
d. , nutmeat
e. , nutmeats
f. (nutmeats)
g. (nuts)
h. (PRE-S appli)
i. (pre-s)

■ ii. In the following table, by changing the term exactly as it appears in the Existing Term column to read exactly like the term in the New Term column wherever it appears in subpart C, and by realphabetizing the new term where necessary.

Existing Term	New Term
Almond, meat	Almond
Amaranth, grain	Amaranth, grain, grain
Animal feed, nongrass, group	Animal feed, nongrass, group 18
Animal feed, nongrass, group, except alfalfa	Animal feed, nongrass, group 18, except alfalfa
Aspirated grain fractions	Grain, aspirated fractions
Banana, pulp with peel removed	Banana, pulp
Banana, whole	Banana
Bean, dry	Bean, dry, seed
Bean, green, postharvest	Bean, succulent, postharvest
Bean, guar	Guar, seed
Bean, lima (green)	Bean, lima, succulent
Bean, mung, dry	Bean, mung, seed
Bean, snap	Bean, snap, succulent
Bean, snap, postharvest	Bean, snap, succulent, postharvest
Bean vine forage	Bean, forage
Beeswax	Honeycomb
Beet	Beet, garden
Beet, greens	Beet, garden, tops
Beet greens (alone)	Beet, garden, tops
Beet, roots	Beet, garden, roots
Beet, sugar, pulp	Beet, sugar, dried pulp
Beet, sugar, pulp (dried and/or dehydrated)	Beet, sugar, dried pulp
Beet, sugar, without tops	Beet, sugar, roots
Beet, tops	Beet, garden, tops
Black walnut meats	Walnut, black
Berry group	Berry group 13
Brassica, head and stem, subgroup	Brassica, head and stem, subgroup 5A
Brassica, head . stem subgroup (5-A)	Brassica, head and stem, subgroup 5A
Brassica, head and stem, subgroup, excluding cabbage	Brassica, head and stem, subgroup 5A, except cabbage
Brassica, leafy greens, subgroup	Brassica, leafy greens, subgroup 5B
Brassica, leafy greens, subgroup (Crop Subgroup 5-B)	Brassica, leafy greens, subgroup 5B
Brassica vegetables crop group	Vegetable, brassica, leafy, group 5
Buckwheat, postharvest	Buckwheat, grain, postharvest
Buckwheat	Buckwheat, grain
Bushberry subgroup	Bushberry subgroup 13B
Bushnuts	Nut, macadamia
Canberries	Caneberry subgroup
Caneberries subgroup	Caneberry subgroup 13A
Caneberry crop subgroup	Caneberry subgroup 13A
Caneberry subgroup	Caneberry subgroup 13A
Canola	Canola, seed
Carambola	Starfruit
Carrot	Carrot, roots
Carrots	Carrot, roots
Carrot, postharvest	Carrot, roots, postharvest
Cattle, milk	Milk
Cherry, sour	Cherry, tart
Cherry (sour)	Cherry, tart
Cherry (sweet), postharvest	Cherry, sweet, postharvest
Chickpea	Chickpea, seed
Chickpeas	Chickpea, seed
Chick pea, seed (dry)	Chickpea, seed
Cilantro	Coriander
Cilantro, leaves	Coriander, leaves
Cipollini, bulb, postharvest	Onion, cipollini, bulb, postharvest
Citrus, pulp	Citrus, dried pulp
Citrus whole fruit	Citrus
Clover, chaff, grown for seed	Clover, seed screenings
Clover, fresh	Clover, forage
Clover, green	Clover, forage
Cocoa	Cocoa bean, dried bean
Cocoa bean	Cocoa bean, dried bean
Coffee	Coffee, bean
Copra	Coconut, copra
Copra, postharvest	Coconut, copra, postharvest
Corn, field, fodder	Corn, field, stover
Corn, field, forage (silage)	Corn, field, forage
Corn, field, milling fractions	Corn, field, milled byproducts
Corn, field, stover (fodder)	Corn, field, stover
Corn, fodder	Corn, stover
Corn, fodder (dry)	Corn, stover
Corn, fodder (field)	Corn, field, stover
Corn, fodder, field (dry)	Corn, field, stover
Corn, fodder, field (green)	Corn, field, stover
Corn, fodder, pop	Corn, pop, stover

Existing Term	New Term
Corn, fodder, sweet	Corn, sweet, stover
Corn, fresh	Corn, sweet, kernal plus cob with husks removed
Corn oil	Corn, field, refined oil
Corn, pop, fodder	Corn, pop, stover
Corn, pop, stover (fodder)	Corn, pop, stover
Corn, silage	Corn, field, forage
Corn, sweet, fodder	Corn, sweet, stover
Cottonseed	Cotton, undelinted seed
Crambe	Crambe, seed
Crop Group 16 (forage, stover and hay of Grain cereal)	Grain, cereal, forage, fodder and straw group 16
Crop Group 15 (Grain, cereal)	Grain, cereal, group 15
Crop Group 17 (grass, forage, and grass, hay)	Grass, forage, fodder and hay, group 17
Dandelions	Dandelion, leaves
Egg, whole	Egg
Field corn, fodder	Corn, field, stover
Filberts (hazelnuts)	Hazelnut
Filbert (Hazelnuts), postharvest	Hazelnut, postharvest
Flaxseed	Flax, seed
Flaxseed meal	Flax, meal
Foliage of legume vegetables	Vegetable, foliage of legume, group 7
Foliage of legume vegetables crop group (foliage)	Vegetable, foliage of legume, group 7
Foliage of legume vegetables (except soybean)	Vegetable, foliage of legume, except soybean, subgroup 7A
Fruit, citrus, group	Fruit, citrus, group 10
Fruit, pome, crop group	Fruit, pome, group 11
Fruit, pome, group	Fruit, pome, group 11

Existing Term	New Term
Fruit, stone (cherry, peach, plum, prune), group	Fruit, stone, group 12
Fruit, stone, group	Fruit, stone, group 12
Fruit, stone, group 12, except cherries	Fruit, stone, group 12, except cherry
Fruit, stone, group, except plum	Fruit, stone, group 12, except plum
Fruit, stone, group, except plum and prune	Fruit, stone, group 12, except plum and plum, prune, fresh
Fruit, stone, group, except fresh prune plum	Fruit, stone, group 12, except plum, prune, fresh
Forage, fodder, and straw of Grains, cereal crop group (forage)	Grain, cereal, forage, fodder and straw, group 16, forage
Forage, fodder, and straw of Grains, cereal crop group (hay)	Grain, cereal, forage, fodder and straw, group 16, hay
Forage, fodder, and straw of Grains, cereal crop group (stover)	Grain, cereal, forage, fodder and straw, group 16, stover
Forage, fodder, and straw of Grains, cereal crop group (straw)	Grain, cereal, forage, fodder and straw, group 16, straw
Garbanzo bean	Chickpea, seed
Ginseng	Ginseng, root
Ginseng, dried	Ginseng, dried root
Ginseng root, fresh	Ginseng, root
Grain, aspirated grain fractions	Grain, aspirated fractions
Grain, cereal crop group (grain)	Grain, cereal, group 15
Grain, cereal forage, fodder and straw, group	Grain, cereal, forage, fodder and straw, group 16
Grain, cereal, group	Grain, cereal, group 15
Grain, cereal, group, except wheat	Grain, cereal, group 15, except wheat

Existing Term	New Term
Grain, cereal, group (except barley, field corn, grain sorghum, oats, and wheat)	Grain, cereal, group 15, except barley, field corn, grain sorghum, oat, and wheat
Grains, Cereal, Forage, Fodder, and Straw, group	Grain, cereal, forage, fodder and straw, group 16
Grains, Cereal, Group	Grain, cereal, group 15
Grass, canary, annual straw	Canarygrass, annual, hay
Grass fodder	Grass, hay
Grass forage, fodder and hay	Grass, forage, fodder and hay, group 17
Grass, forage, fodder, and hay	Grass, forage, fodder and hay, group 17
Grass, forage, fodder and hay, group	Grass, forage, fodder and hay, group 17
Grass, hay (pasture and rangeland)	Grass, hay
Grass, seed cleanings (including hulls)	Grass, seed screenings
Grass, seed straw (including chaff)	Grass, straw, grown for seed
Head and stem Brassica crop subgroup	Brassica, head and stem, subgroup 5A
Herb and spice group	Herb and spice group 19
Herbs and spices	Herb and spice group 19
Herb subgroup	Herb subgroup 19A
Herbs subgroup	Herb subgroup 19A
Hop, fresh	Hop, vine
Hop, green	Hop, vine
(inc. sweet K=CWHR)	, kernel plus cob with husks removed
(inc sweet K=CWHR)	, kernel plus cob with husks removed
(including sweet K=CWHR)	, kernel plus cob with husks removed

Existing Term	New Term
Leafy greens crop subgroup	Leafy greens subgroup 4A
Leafy greens subgroup	Leafy greens subgroup 4A
Leafy petioles subgroup	Leaf petioles subgroup 4B
Leafy vegetable (except Brassica) crop group	Vegetable, leafy, except brassica, group 4
Leafy vegetable (except Brassica) vegetables group	Vegetable, leafy, except brassica, group 4
Leafy vegetables (except brassica) group (except spinach)	Vegetable, leafy, except brassica, group 4, except spinach
Leaves of root and tuber vegetables (human food or animal feed) group	Vegetable, leaves of root and tuber, group 2
Legume vegetable group foliage (except soybean, forage and soybean, hay)	Vegetable, foliage of legume, except soybean, subgroup 7A
Legume vegetable group (dry or succulent)	Vegetable, legume, group 6
Legume vegetable group (dry and succulent)	Vegetable, legume, group 6
Legume vegetable (succulent or dried) group	Vegetable, legume, group 6
Legume vegetables	Vegetable, legume, group 6
Legume vegetables crop group, seed	Vegetable, legume, group 6
Legume vegetables (succulent or dried) group	Vegetable, legume, group 6
Legume vegetable (succulent or dried group, excluding soybeans)	Vegetable, legume, group 6, except soybean
Lentils	Lentil, seed
Mandarins	Tangerine
Melon subgroup	Melon subgroup 9A
Mustard, Chinese	Mustard greens

Existing Term	New Term
Nongrass animal feed (forage, fodder, straw, and hay)	Animal feed, nongrass, group 18 group
Nut, tree crop group	Nut tree, group 14
Nut, tree, group	Nut, tree, group 14
Nut, tree, group (except Almond, hulls)	Nut, tree, group 14
Oat, fodder	Oat, straw
Oat, forage, green	Oat, forage
Oat, green forage	Oat, forage
Orange	Orange, sweet
Oranges	Orange, sweet
Parsley	Parsley, leaves
Parsley, root	Parsley, turnip rooted, roots
Pea and bean, dried shelled, except soybean, subgroup	Pea and bean, dried shelled, except soybean, subgroup 6C
Pea and bean, succulent shelled, subgroup	Pea and bean, succulent shelled, subgroup 6B
Peach (including nectarines)	Peach
Pea, dried	Pea, dry, seed
Pea, dry	Pea, dry, seed
Pea, forage	Pea, field vines
Pea, hay	Pea, field, hay
Peanut forage	Peanut, hay
Peanut, oil	Peanut, refined oil
Peanut, shells	Peanut, hulls
Pea, southern, blackeyed	Pea, blackeyed
Peanut, vines	Peanut, hay
Peanut forage and hay	Peanut, hay
Pigeon peas	Pea, pigeon, seed
Pineapple bran (wet and dry)	Pineapple, bran
Pistachio nut	Pistachio
Pistachio nuts	Pistachio
Plum, dried	Plum, prune, dried

Existing Term	New Term
Potato, waste, dried	Potato, processed potato waste
(PRE- and POST-H)	, postharvest
Raisin	Grape, raisin
Raisins	Grape, raisin
Raisin waste	Grape, raisin, waste
Rape forage	Rapeseed, forage
Rapeseed	Rapeseed, seed
Rape seed	Rapeseed, seed
Rice	Rice, grain
Rice, fodder	Rice, straw
(roots PRE-H)	, roots
Rye, fodder	Rye, straw
Rye, forage, green	Rye, forage
Rye, green forage	Rye, forage
Rye, hay	Rye, forage
Safflower	Safflower, seed
Sorghum, aspirated grain fractions	Grain, aspirated fractions
Sorghum forage	Sorghum, forage
Sorghum grain	Sorghum, grain
Sorghum, green forage	Sorghum, forage, hay
Sorghum milling fraction	Sorghum, grain, flour
Sorghum milling fractions (except flour)	Sorghum, grain, bran
Sorghum (milo)	Sorghum, grain
Sorghum, stover	Sorghum, grain, stover
Sorghum, hay	Sorghum, forage, hay
Sorgum, fodder	Sorghum, grain, stover
Soybean grain	Soybean, seed
Soybean, oil	Soybean, refined oil
Spearmint	Spearmint, tops
Spearmint hay	Spearmint, hay

Existing Term	New Term
Spice subgroup	Spice subgroup 19B
Spices subgroup	Spice subgroup 19B
Squash/Cucumber subgroup	Squash/Cucumber subgroup 9B
Sugarbeet, pulp	Beet, sugar, dried pulp
Sugarcane	Sugarcane, cane
Sunflower	Sunflower, seed
Sunflowers	Sunflower, seed
Sweet potato	Sweet potato, roots
Swine, fat	Hog, fat
Swine, kidney	Hog, kidney
Swine, liver	Hog, liver
Swine, meat	Hog, meat
Swine, meat by-products	Hog, meat byproducts
Tomato, fresh	Tomato
Tomato, fruit	Tomato
(tops PRE-H)	, tops
Tree nut (crop group 14), nutmeat	Nut, tree, group 14
Tree nuts (crop group 14)	Nut, tree, group 14
Tuberous and Corm, Vegetable Crop Subgroup	Vegetable, tuberous and corm, subgroup 1C
Turnip, greens, tops	Turnip, greens
Turnip, tops	Turnip, greens
Wheat, fodder	Wheat, straw
Wheat, fodder, green	Wheat, hay
Wheat, forage (green)	Wheat, forage
Wheat, forage, green	Wheat, forage
Wheat, green fodder	Wheat, hay
Wheat, green forage	Wheat, forage
Wheat, stover	Wheat, straw

Existing Term	New Term
Vegetable, brassica, leafy, group	Vegetable, brassica, leafy, group 5
Vegetable, brassica, leafy group	Vegetable, brassica, leafy, group 5
Vegetable, brassica, leafy, group (exceptbroccoli, cabbage, cauliflower, brussels sprouts, and mustard greens)	Vegetable, brassica, leafy, group 5, except broccoli, cabbage, cauliflower,brussels sprouts, and mustard greens
Vegetable, bulb, group	Vegetable, bulb, group 3
Vegetable, cucurbit, crop group	Vegetable, cucurbit, group 9
Vegetable, cucurbit, group	Vegetable, cucurbit, group 9
Vegetable, cucurbit, group (Crop Group 9)	Vegetable, cucurbit, group 9
Vegetable, cucurbit, melon, crop subgroup 9-A	Melon subgroup 9A
Vegetable, foliage of legume, except soybean, subgroup	Vegetable, foliage of legume, except soybean, subgroup 7A
Vegetable, foliage of legume, group (except soybean, forage and hay)	Vegetable, foliage of legume, except soybean, subgroup 7A
Vegetable, foliage of legume, group	Vegetable, foliage of legume, group 7
Vegetable, fruiting Crop Group	Vegetable, fruiting, group 8
Vegetable, fruiting, group (Crop Group 8)	Vegetable, fruiting, group 8
Vegetable, fruiting (except cucurbits) group	Vegetable, fruiting, group 8
Vegetables, fruiting (except cucurbits), group	Vegetable, fruiting, group 8
Vegetable, fruiting, group	Vegetable, fruiting, group 8
Vegetable, fruiting group	Vegetable, fruiting, group 8

Existing Term	New Term
Vegetable, fruiting, group (except cucurbits)	Vegetable, fruiting, group 8
Vegetable, fruiting, except cucurbit	Vegetable, fruiting, group 8
Vegetable, fruiting, crop group	Vegetable, fruiting, group 8
Vegetable, leaf petiole, subgroup	Leaf petioles subgroup 4B
Vegetable, leafy, except brassica, group	Vegetable, leafy, except brassica, group 4
Vegetable, leafy, except brassica, group (Crop Group 4)	Vegetable, leafy, except brassica, group 4
Vegetable, leafy, except Brassica, group	Vegetable, leafy, except brassica, group 4
Vegetable, leafy group, except brassica	Vegetable, leafy, except brassica, group 4
Vegetable, leaves of root and tuber, group	Vegetable, leaves of root and tuber, group 2
Vegetable, leaves of root and tuber, group (except sugar beet tops)	Vegetable, leaves of root and tuber, group 2, except sugar beet
Vegetable, legume, edible podded, subgroup	Vegetable, legume, edible podded, subgroup 6A
Vegetables, legume, edible podded, subgroup	Vegetable, legume, edible podded, subgroup 6A
Vegetable, legume, group	Vegetable, legume, group 6
Vegetable, legume, group (except soybean)	Vegetable, legume, group 6, except soybean
Vegetable, root and tuber, group	Vegetable, root and tuber, group 1
Vegetable, root, except sugar beet, subgroup	Vegetable, root, except sugar beet, subgroup 1B
Vegetable, root (except sugar beet) subgroup	Vegetable, root, except sugar beet, subgroup1B
Vegetable, root and tuber, group (except sugar beet)	Vegetable, root and tuber, group 1, except sugar beet

Existing Term	New Term
Vegetable, root, subgroup	Vegetable, root, subgroup 1A
Vegetable, tuberous and corm, except potato, subgroup	Vegetable, tuberous and corm, except potato, subgroup 1D
Vegetable, tuberous and corm, subgroup	Vegetable, tuberous and corm, subgroup 1C
Vegetable, tuberous and corm, subgroup (Crop Subgroup 1-C)	Vegetable, tuberous and corm, subgroup 1C
Yams	Yam, true, tuber

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0043; FRL–7316–9]

Pesticide Tolerance Nomenclature Changes; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document makes minor revisions to the terminology of certain commodity terms listed under 40 CFR part 180, subpart C. EPA is taking this action to establish a uniform listing of commodity terms.

EFFECTIVE DATE: This rule becomes effective on July 1, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0043, must be received on or before September 2, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9368; and e-mail address: *jamerson.hoyt@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0043. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the" **Federal Register**" listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access an electronic copy of the commodity data base entitled *Food and Feed Commodity Vocabulary* go to: *http://www.epa.gov/pesticides/foodfeed/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

II. Background

What Action is the Agency Taking?

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary data base entitled *Food and Feed Commodity Vocabulary*. The data base was developed to consolidate all the major OPP commodity vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use the preferred commodity term as listed in the aforementioned data base. This revision process will establish a uniform presentation of existing commodity terms under 40 CFR part 180. This is the fourth in a series of documents revising the terminology of commodity terms currently used in tolerances in 40 CFR part 180. Two final rules, revising pesticide tolerance nomenclature, were published in the **Federal Register** on June 19, 2002 (67 FR 41802) (FRL–6835–2), and June 21, 2002 (67 FR 42392) (FRL–7180–1).

In the **Federal Register** of April 18, 2003, (68 FR 19170) (FRL–7176–9) EPA issued a proposed rule to make minor revisions to the terminology of certain commodity terms used in tolerances in 40 CFR part 180, subpart C, to establish a uniform listing of commodities. There were no comments received in response to the proposed rule.

This revision process will establish a uniform presentation of existing commodity terms under 40 CFR part 180.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process

for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0043 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 2, 2003.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2002–0043, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Statutory and Executive Order Reviews

This final rule makes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final 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). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) 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 impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. 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 action proposes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations. This technical amendment will not have any negative economic impact on any entities, including small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this final rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This final rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

V. Congressional Review Act

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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR part 180

Administrative practice and procedure, Agricultural commodities, Environmental protection, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: June 26, 2003.

James Jones,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I, part 180, subpart C is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 will continue to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

■ 2. Section 180.113 is revised to read as follows:

§ 180.113 Allethrin (allyl homolog of cinerin I); tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide allethrin (allyl homolog of cinerin I) in or on the following food commodities:

Commodity	Parts per million
Apple, postharvest	4
Barley, grain, postharvest	2
Blackberry, postharvest	4
Blueberry, postharvest	4
Boysenberry, postharvest	4
Cherry, postharvest	4
Corn, grain, postharvest	2
Crabapple, postharvest	4
Currant, postharvest	4
Dewberry, postharvest	4
Fig, postharvest	4
Gooseberry, postharvest	4
Grape, postharvest	4
Guava, postharvest	4
Huckleberry, postharvest	4
Loganberry, postharvest	4
Mango, postharvest	4
Muskmelon, postharvest	4
Oat, grain, postharvest	2
Orange, postharvest	4
Peach, postharvest	4
Pear, postharvest	4
Pineapple, postharvest	4
Plum, postharvest	4
Plum, prune, fresh, postharvest	4
Raspberry, postharvest	4
Rye, grain, postharvest	2
Sorghum, grain, grain, postharvest	2
Tomato, postharvest	4
Wheat, grain, postharvest	2

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 3. Section 180.116 is revised to read as follows:

§ 180.116 Ziram; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide ziram (zinc dimethyldithiocarbamate), calculated as zinc ethylenebisdithiocarbamate, in or on the following food commodities:

Commodity	Parts per million
Almond	0.1
Apple	7[1]
Apricot	7[1]
Bean	7[1]
Beet, garden, roots	7[1]
Beet, garden, tops	7[1]
Blackberry	7[1]
Blueberry	7[1]
Boysenberry	7[1]

Commodity	Parts per million
Broccoli	7[1]
Brussel sprouts	7[1]
Cabbage	7[1]
Carrot, roots	7[1]
Cauliflower	7[1]
Celery	7[1]
Cherry	7[1]
Collards	7[1]
Cranberry	7[1]
Cucumber	7[1]
Dewberry	7[1]
Eggplant	7[1]
Gooseberry	7[1]
Grape	7[1]
Huckleberry	7[1]
Kale	7[1]
Kohlrabi	7[1]
Lettuce	7[1]
Loganberry	7[1]
Melon	7[1]
Nectarine	7[1]
Onion	7[1]
Pea	7[1]
Peach	7[1]
Peanut	7[1]
Pear	7[1]
Pecan	0.1
Pepper	7[1]
Pumpkin	7[1]
Quince	7[1]
Radish, roots	7[1]
Radish, tops	7[1]
Raspberry	7[1]
Rutabaga, roots	7[1]
Rutabaga, tops	7[1]
Spinach	7[1]
Squash	7[1]
Squash, summer	7[1]
Strawberry	7[1]
Tomato	7[1]
Turnip, greens	7[1]
Turnip, roots	7[1]
Youngberry	7[1]

[1]See footnote 1 to § 180.114.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 4. Section 180.133 is revised to read as follows:

§ 180.133 Lindane; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide lindane (gamma isomer of benzene hexachloride) in or on the following food commodities:

Commodity	Parts per million
Apple	1
Apricot	1
Asparagus	1
Avocado	1
Broccoli	1
Brussels sprouts	1
Cabbage	1
Cattle, fat	7
Cauliflower	1
Celery	1
Cherry	1
Collards	1
Cucumber	3
Eggplant	1
Goat, fat	7
Grape	1
Guava	1
Hog, fat	4
Horse, fat	7
Kale	1
Kohlrabi	1
Lettuce	3
Mango	1
Melon	3
Mushroom	3
Mustard greens	1
Nectarine	1
Okra	1
Onion, dry bulb	1
Peach	1
Pear	1
Pecan	0.01(N)
Pepper	1
Pineapple	1
Plum	1
Plum, prune, fresh	1
Pumpkin	3
Quince	1
Sheep, fat	7
Spinach	1
Squash	3
Squash, summer	3
Strawberry	1
Swiss chard	1
Tomato	3

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 5. Section 180.143 is revised to read as follows:

§ 180.143 Dipropyl isocinchomeronate; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide dipropyl isocinchomeronate, resulting from dermal application, in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.1(N)
Cattle, meat	0.1(N)
Cattle, meat by-products	0.1(N)
Goat, fat	0.1(N)
Goat, meat	0.1(N)
Goat, meat byproducts	0.1(N)
Hog, fat	0.1(N)
Hog, meat	0.1(N)
Hog, meat byproducts	0.1(N)
Horse, fat	0.1(N)
Horse, meat	0.1(N)
Horse, meat by-products	0.1(N)
Milk	0.004(N)
Sheep, fat	0.1(N)
Sheep, meat	0.1(N)
Sheep, meat by-products	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 6. Section 180.149 is revised to read as follows:

§ 180.149 Mineral oil; tolerances for residues.

(a) *General.* (1) For the purposes of this section, the insecticide mineral oil is defined as the refined petroleum fraction having the following characteristics:

(i) Minimum flashpoint of 300 °F.

(ii) Gravity of 27 to 34 by the American Petroleum Institute standard method.

(iii) Pour point of 30 °F maximum.

(iv) Color 2 maximum by standards of the American Society for Testing Materials.

(v) Boiling point between 480 °F and 960 °F.

(vi) Viscosity at 100 °F of 100 to 200 seconds Saybolt.

(vii) Unsulfonated residue of 90 percent minimum.

(viii) No sulfur compounds according to the United States Pharmacopeia test under Liquid Petrolatum.

(2) Tolerances for residues of mineral oil as specified in paragraph (a)(1) of this section are established in or on the following food commodities:

Commodity	Parts per million
Corn, grain, postharvest	200
Sorghum, grain, grain, postharvest	200

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 7. Section 180.179 is revised to read as follows:

§ 180.179 Tartar emetic; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide tartar emetic, calculated as combined antimony trioxide, in or on the following food commodities:

Commodity	Parts per million
Fruit, citrus	3.5
Grape	3.5
Onion	3.5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 8. Section 180.180 is revised to read as follows:

§ 180.180 Orthoarsenic acid; tolerance for residues.

(a) *General.* A tolerance that expires on July 1, 1995, for combined As_2O_3 is established for residues of the defoliant orthoarsenic acid in or on the following food commodity:

Commodity	Parts per million
Cotton, undelinted seed	4

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 9. Section 180.202 is revised to read as follows:

§ 180.202 p-Chlorophenoxyacetic acid; tolerances for residues.

(a) *General.* (1) A tolerance is established for combined residues of the plant regulator *p*-chlorophenoxyacetic acid and its metabolite *p*-chlorophenol in or on the following food commodity:

Commodity	Parts per million
Tomato	0.05

(2) A tolerance is established for combined residues of the plant regulator *p*-chlorophenoxyacetic acid and its metabolite *p*-chlorophenol to inhibit embryonic root development in or on the following food commodity:

Commodity	Parts per million
Bean, mung, sprouts	2

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 10. Section 180.208 is revised to read as follows:

§ 180.208 N-Butyl-N-ethyl-α·α·α-trifluoro-2,6-dinitro-p-toluidine; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide *N*-butyl-*N*-ethyl-α·α·α-trifluoro-2,6-dinitro-*p*-toluidine in or on the following food commodities:

Commodity	Parts per million
Alfalfa, forage	0.05(N)
Alfalfa, hay	0.05(N)
Clover, forage	0.05(N)
Clover, hay	0.05(N)
Lettuce	0.05(N)
Peanut	0.05(N)
Trefoil, birdsfoot, forage	0.05(N)
Trefoil, birdsfoot, hay	0.05(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 11. Section 180.210 is revised to read as follows:

§ 180.210 Bromacil; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide bromacil (5-bromo-3-*sec*-butyl-6-methyluracil) in or on the following food commodities:

Commodity	Parts per million
Fruit, citrus	0.1
Pineapple	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 12. Section 180.212 is revised to read as follows:

§ 180.212 S-Ethyl cyclohexylethylthiocarbamate; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide *S*-ethyl cyclohexylethylthiocarbamate in or on the following food commodities:

Commodity	Parts per million
Beet, garden, roots	0.05(N)
Beet, garden, tops	0.05(N)
Beet, sugar, roots	0.05(N)
Beet, sugar, tops	0.05(N)
Spinach	0.05(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 13. Section 180.228 is revised to read as follows:

§ 180.228 S-Ethyl hexahydro-1H-azepine-1-carbothioate; tolerances for residues.

(a) *General.* Tolerances are established for the herbicide *S*-ethyl hexahydro-1*1H*-azepine-1-carbothioate in or on the following food commodities:

Commodity	Parts per million
Rice, grain	0.1(N)
Rice, straw	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 14. Section 180.232 is revised to read as follows:

§ 180.232 Butylate; tolerances for residues.

(a) *General.* Tolerances are established for the herbicide butylate in or on the following food commodities:

Commodity	Parts per million
Corn, field, forage	0.1
Corn, field, grain	0.1
Corn, field, stover	0.1
Corn, pop, forage	0.1
Corn, pop, grain	0.1
Corn, sweet, forage	0.1
Corn, sweet, kernel, plus cob with husks removed	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 15. Section 180.238 is revised to read as follows:

§ 180.238 S-Propyl butylethylthiocarbamate; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide *S*-propyl butylethylthiocarbamate in or on the following food commodities:

Commodity	Parts per million
Beet, sugar, roots	0.1(N)
Beet, sugar, tops	0.1(N)
Tomato	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 16. Section 180.241 is revised to read as follows:

§ 180.241 S-(O,O-Diisopropyl phosphorodithioate) of N-(2-mercaptoethyl) benzenesulfonamide; tolerances for residues.

(a) *General.* Tolerances are established for residues of S-(O,O-diisopropyl phosphorodithioate) of N-(2-mercaptoethyl benzenesulfonamide including its oxygen analog S-(O,O-diisopropyl phosphorodithioate) of N-(2-mercaptoethyl) benzenesulfonamide in or on the following food commodities:

Commodity	Parts per million
Carrot, roots	0.1(N)
Cucurbits	0.1(N)
Onion, dry bulb	0.1(N)
Vegetable, fruiting	0.1(N)
Vegetable, leafy	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 17. Section 180.245 is revised to read as follows:

§ 180.245 Streptomycin; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the fungicide streptomycin in or on the following food commodity:

Commodity	Parts per million
Pome, fruit	0.25

(2) Tolerances are established for residues of the fungicide streptomycin from treatment of seedling plants before transplanting in or on the following food commodities:

Commodity	Parts per million
Celery	0.25
Pepper	0.25
Tomato	0.25

(3) Tolerances are established for residues of the fungicide streptomycin from treatment of seed pieces in or on the following food commodity:

Commodity	Parts per million
Potato	0.25

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 18. Section 180.257 is revised to read as follows:

§ 180.257 Chloroneb; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide chloroneb (1,4-dichloro-2,5-dimethoxybenzene) and its metabolite 2,5-dichloro-4-methoxyphenol (calculated as chloroneb) in or on the following food commodities:

Commodity	Parts per million
Bean	0.1(N)
Bean, forage	2
Beet, sugar, roots	0.1(N)
Beet, sugar, tops	0.1(N)
Cattle, fat	0.2
Cattle, meat	0.2
Cattle, meat by-products	0.2
Cotton, forage	2
Cotton, undelinted seed	0.1(N)
Goat, fat	0.2
Goat, meat	0.2
Goat, meat byproducts	0.2
Hog, fat	0.2
Hog, meat	0.2
Hog, meat byproducts	0.2
Horse, fat	0.2
Horse, meat	0.2
Horse, meat by-products	0.2
Milk	0.05(N)
Sheep, fat	0.2
Sheep, meat	0.2
Sheep, meat by-products	0.2
Soybean	0.1(N)
Soybean, forage	2

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 19. Section 180.288 is revised to read as follows:

§ 180.288 2-(Thiocyanomethylthio)benzothiazole; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide 2-(thiocyanomethylthio)benzothiazole in or on the following food commodities:

Commodity	Parts per million
Barley, grain	0.1(N)
Barley, straw	0.1(N)
Beet, sugar, roots	0.1(N)
Beet, sugar, tops	0.1(N)
Corn, grain	0.1(N)
Corn, forage	0.1(N)
Corn, stover	0.1(N)
Cotton, forage	0.1(N)
Cotton, undelinted seed	0.1(N)
Oat, forage	0.1(N)
Oat, grain	0.1(N)
Oat, hay	0.1(N)
Oat, straw	0.1(N)
Rice, grain	0.1(N)
Rice, straw	0.1(N)
Safflower, seed	0.1(N)
Sorghum, grain, forage	0.1(N)
Sorghum, grain, grain	0.1(N)
Sorghum, grain, stover	0.1(N)
Wheat, forage	0.1(N)
Wheat, grain	0.1(N)
Wheat, hay	0.1(N)
Wheat, straw	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 20. Section 180.309 is revised to read as follows:

§ 180.309 α-Naphthaleneacetamide; tolerances for residues.

(a) *General.* Tolerances are established for combined negligible residues of the plant regulatorα-naphthaleneacetamide and its metabolite α-naphthaleneacetic acid (calculated asα-naphthaleneacetic acid) in or on the following food commodities:

Commodity	Parts per million
Apple	0.1
Pear	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 21. Section 180.311 is revised to read as follows:

§ 180.311 Cacodylic acid; tolerances for residues.

(a) *General.* Tolerances are established for residues of the defoliant cacodylic acid (dimethylarsinic acid), expressed as As_2O_3, in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.7
Cattle, kidney	1.4
Cattle, liver	1.4
Cattle, meat	0.7
Cattle, meat by-products, except kidney	0.7
Cattle, meat by-products, except liver	0.7
Cotton, undelinted seed	2.8

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 22. Section 180.312 is revised to read as follows:

§ 180.312 4-Aminopyridine; tolerances for residues.

(a) *General.* Tolerances are established for the bird repellent 4-aminopyridine in or on the following food commodities:

Commodity	Parts per million
Corn, forage	0.1(N)
Corn, field, grain	0.1(N)
Corn, pop, grain	0.1(N)
Corn, stover	0.1(N)
Corn, sweet, kernels plus cob with husks removed	0.1(N)
Sunflower, seed	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 23. Section 180.316 is revised to read as follows:

§ 180.316 Pyrazon; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide pyrazon (5-amino-4-chloro-2-phenyl-3(2H)-pyridazinone) and its metabolites (calculated as pyrazon) in or on the following food commodities:

Commodity	Parts per million
Beet, garden, roots	0.1(N)
Beet, garden, tops	1
Beet, sugar, roots	0.1(N)
Beet, sugar, tops	1
Milk	0.01(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 24. Section 180.318 is revised to read as follows:

§ 180.318 4-(2-Methyl-4-chlorophenoxy) butyric acid; tolerance for residues.

(a) *General.* A tolerance is established for the herbicide 4-(2-methyl-4-chlorophenoxy) butyric acid in or on the following food commodity:

Commodity	Parts per million
Pea	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c)*Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 25. Section 180.344 is revised to read as follows:

§ 180.344 4,6-Dinitro-o-cresol and its sodium salt; tolerance for residues.

(a) *General.* A tolerance is established for residues of the plant regulator 4,6-dinitro-*o*-cresol and its sodium salt, from application to apple trees at the blossom stage as a fruit-thinning agent, in or on the following food commodity:

Commodity	Parts per million
Apple	0.02(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 26. Section 180.360 is revised to read as follows:

§ 180.360 Asulam; tolerance for residues.

(a) *General.* A tolerance is established for residues of the herbicide asulam (methyl sulfanilylcarbamate) in or on the following food commodity:

Commodity	Parts per million
Sugarcane, cane	0.1(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 27. Section 180.488 is revised to read as follows:

§ 180.488 Hexaconazole; tolerance for residues.

(a) *General.* A tolerance is established for residues of the fungicide hexaconazole, [alpha-butyl-alpha-(2,4-dichlorophenyl)-1*H*-1,2,4-triazole-1-ethanol], in or on the following food commodity:

Commodity	Parts per million
Banana[1]	0.7

[1]There are no U.S. registrations as of June 30, 1999.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 03–16613 Filed 6–30–03; 8:45 am]

BILLING CODE 6560–50–S

Federal Register

Tuesday,
July 1, 2003

Part VI

Department of Housing and Urban Development

Changes in Certain Multifamily Mortgage Insurance Premiums; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4679–N–06]

Changes in Certain Multifamily Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with HUD regulations, this Notice lowers the mortgage insurance premiums (MIP) for certain Federal Housing Administration (FHA) mortgage insurance programs whose commitments will be issued in Fiscal Year (FY) 2004.

DUE DATE: *Comment Due Date:* July 31, 2003.

ADDRESSES: Interested persons are invited to submit written comments regarding this rule to the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, (202) 708–1142 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

On March 17, 2003 (68 FR 12792), HUD published a final rule on ''Mortgage Insurance Premiums in Multifamily Housing Programs,'' which adopted, without change, the interim rule published on July 2, 2001 (66 FR 35072). The final and interim rule revised the regulatory system for establishing the MIP. Instead of setting the MIP at a specific rate, the Secretary is permitted to change an MIP within the full range of HUD's statutory authority of one fourth of one percent to one percent through a notice, as provided in section 203(c)(1) of the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)). The final rule states that HUD will provide a 30-day period for public comment on future notices changing mortgage insurance premiums in multifamily insured housing programs. These regulations are codified at 24 CFR 207.252, 207.252a, and 207.254.

This Notice announces the lowering of mortgage insurance premiums in FY 2004 to 50 basis points for multifamily programs authorized under sections 207, 220, and 221(d)(4) of the Act without low-income housing tax credits, section 231 of the Act, and insured programs with HOPE VI with or without low-income housing tax credits. The effective date of these changes is October 1, 2003. Multifamily programs under the following sections of the Act will remain at 80 basis points and will continue to require a credit subsidy obligation: Section 221(d)(3) for nonprofit and cooperatives for new construction or rehabilitation, section 223(d) for operating loss loans for both apartments and health care facilities, and section 241(a) for supplemental loans for additions or improvements to existing apartments. The MIP for sections 223(a)(7), 207 pursuant to 223(f), 232, 232 pursuant to 223(f), 242, and 241(a) of the Act for health care facilities, Title XI, and low-income housing tax credit projects remain unchanged at 50 basis points.

The mortgage insurance premiums to be in effect for FHA firm commitments issued, amended, or reissued in FY 2004 are shown in the table below:

FISCAL YEAR 2004

Multifamily loan program	Basis points
Section 207—Multifamily Housing—New Constr/Sub. Rehab	50
Section 207—Manufactured Home Parks	50
Section 220—Housing In Urban Renewal Areas	50
Section 221(d)(3)—Moderate Income Housing	80
Section 221(d)(4)—Moderate Income Housing	50
Section 223(a)(7)—Refinancing of Insured Multifamily Project	50
Section 223(d)—Operating Loss Loans	80
Section 207 pursuant to 223(f)—Purchase or Refinance Housing	*50
Section 213—Cooperatives	50
Section 231—Housing for the Elderly	50
Section 232—Health Care Facilities	50
Section 232 pursuant to Section 223(f)—Purchase or Refinance Health Care	*50
Section 234(d)—Condominium Housing	50
Section 241(a)—Additions & Improvements for Apartments	80

FISCAL YEAR 2004—Continued

Multifamily loan program	Basis points
Section 241(a)—Additions & Improvements for Health Care Facilities	50
Section 242—Hospitals	50
Title XI—Group Practice	50

*First Year MIP for these programs remain at 100 basis points.

Applicable Mortgage Insurance Premium Procedures

The MIP regulations are found in 24 CFR part 207. This Notice is published in accordance with the procedures stated in 24 CFR 207.252, 207.252(a), and 207.254.

Transition Guidelines

A. General

If a firm commitment has been issued at a higher MIP, and FHA has not initially endorsed the note, the lender may request the field office to reprocess the commitment at the lower MIP and reissue the commitment on or after October 1, 2003. If the initial endorsement has occurred the MIP cannot be changed.

B. Extension of Outstanding 57 and 61 Basis Points Firm Commitments

FHA may extend outstanding firm commitments when the Hub/Program Center determines that the underwriting conclusions (rents, expenses, construction costs, mortgage amount and case required to close) are still valid.

C. Reprocessing of Outstanding 57 and 61 Basis Points Firm Commitments

FHA will consider requests from mortgagees to reprocess outstanding firm commitments at the lower mortgage insurance premium once the new premiums become effective in FY 2004:

1. Outstanding commitments with initial 60-day expiration dates on or after the effective date of this MIP notice.

- FHA Multifamily Hub/Program Center staff will simply reprocess these cases to reflect the impact of the lower MIP and reissue commitments with a new date.

2. Outstanding commitments with initial expiration dates prior to the effective date of this MIP notice which have pending extension requests or have had extensions granted by FHA beyond the initial 60-day period.

- These cases will require more extensive reprocessing by FHA staff. Reprocessing will include an updated FHA field staff analysis and review of

rents, expenses, construction costs, particularly considering any changes in Davis-Bacon wage rates, and cash required to close. (An updated appraisal may be required from the mortgagee depending on the age of the appraisal.) If reprocessing results in favorable underwriting conclusions, Hub/Program Center staff will reissue commitments with a new date at the new MIP.

D. Reopening of Expired 57 or 61 Basis Points Firm Commitments

FHA will consider requests from mortgagees, which may be either updated Traditional Application Processing (TAP) firm commitment applications or updated Multifamily Accelerated Processing (MAP) applications with updated exhibits, to reopen expired 57 or 61 basis points commitments on or after the effective date of the MIP notice, provided that the reopening requests are received within 90 days of the expiration of the commitments and include the $.50 per thousand of requested mortgage reopening fee. Reopening requests will be reprocessed by FHA field staff under the instructions in paragraph C.2 above.

After expiration of the 90-day reopening period, mortgagees are required to submit new applications with the $3 per thousand application fee (MAP applications must start at the pre-application stage).

Credit Subsidy

Mortgagee Letters will be issued from time to time to advise mortgagees of any requirements for credit subsidy and the availability of credit subsidy. In FY 2004, the same three programs will require credit subsidy as in FY 2003: Section 221(d)(3) for nonprofit and cooperatives for new construction or substantial rehabilitation, section 223(d) for operating loss loans for both apartments and health care facilities, and section 241(a) for supplemental loans for additions or improvements to existing apartments only. FHA will not issue amended commitments for increased mortgage amounts nor obligate additional credit subsidy for projects requiring credit subsidy in FY 2004.

Dated: June 24, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

[FR Doc. 03–16595 Filed 6–30–03; 8:45 am]

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Federal Register

Vol. 68, No. 126

Tuesday, July 1, 2003

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Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
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FEDERAL REGISTER PAGES AND DATE, JULY

39005–39446 1

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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.

RULES GOING INTO EFFECT JULY 1, 2003

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing, and standards:

Classification services to growers; 2003 user fees; published 5-22-03

AGRICULTURE DEPARTMENT

Forest Service

Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):

Wildlife; 2003-2004 subsistence taking; published 6-27-03

COMMODITY FUTURES TRADING COMMISSION

Foreign futures and options transactions:

Application exemptions—

ASX Futures Exchanges Party Ltd.; published 7-1-03

EDUCATION DEPARTMENT

Postsecondary education:

Institutional eligibility; various Federal student aid loan and grant programs; published 11-1-02

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Pennsylvania; published 5-2-03

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Nomenclature changes; technical amendments; published 7-1-03

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Incumbent local exchange carriers—

Accounting and ARMIS reporting requirements; review by Federal-State Joint Conference on Accounting Issues; published 12-18-02

Practice and procedure:

Wireless telecommunications services—

Tribal lands bidding credits; published 5-2-03

Radio services, special:

Personal radio services—

Personal locator beacons; 406.025 MHz use authorization; published 6-2-03

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:

Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; published 3-28-03

Correction; published 5-30-03

HOMELAND SECURITY DEPARTMENT

Coast Guard

Maritime security:

Area maritime security; published 7-1-03

Automatic Identification System; vessel carriage requirements; published 7-1-03

Facility security; published 7-1-03

General provisions; published 7-1-03

Outer Continental Shelf facility security; published 7-1-03

Vessels; security measures; published 7-1-03

Ports and waterways safety:

Detroit Captain of Port Zone; safety zone; published 6-24-03

INTERIOR DEPARTMENT

Fish and Wildlife Service

Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):

Wildlife; 2003-2004 subsistence taking; published 6-27-03

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Advertising accuracy and insured status notice; published 5-2-03

Insurance requirements—

Foreign branching; published 4-30-03

PENSION BENEFIT GUARANTY CORPORATION

Single-employer plans:

Allocation of assets—

Interest assumptions for valuing and paying benefits; published 6-13-03

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Retirement age; published 7-1-03

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 5-27-03

Boeing; published 5-27-03

RULES GOING INTO EFFECT JULY 01, 2003

McDonnell Douglas; published 5-27-03

Raytheon; published 5-27-03

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Incidental expenses substantiation; published 7-1-03

Procedure and administration:

Returns required with respect to controlled foreign partnerships; published 7-1-03

TREASURY DEPARTMENT

Thrift Supervision Office

Alternative Mortgage Transaction Parity Act; preemption; published 12-12-02

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Kiwifruit grown in—

California; comments due by 7-8-03; published 6-23-03 [FR 03-15826]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Sapote Fruit Fly; comments due by 7-7-03; published 5-8-03 [FR 03-11438]

User fees:

Veterinary services—

Miami International Airport, FL; animal ramp; comments due by 7-11-03; published 5-12-03 [FR 03-11707]

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Conservation Reserve Program:

Acreage enrollment terms and conditions and program eligibility requirements; comments due by 7-7-03; published 5-8-03 [FR 03-11405]

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Food Stamp Program:

Electronic benefit transfer and retail food store provisions; comments due by 7-7-03; published 5-6-03 [FR 03-11135]

AGRICULTURE DEPARTMENT

Grain Inspection, Packers and Stockyards Administration

Grain weighing equipment and related handling sysytems; Official Performance and procedural requiremnts; comments due by 7-10-03; published 6-10-03 [FR 03-14553]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Environmental statements; notice of intent:

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; comments due by 7-7-03; published 6-5-03 [FR 03-14177]

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Northeastern United States fisheries and Northeast Skate Complex Fisheries; Skate Fishery Management Plan; comments due by 7-7-03; published 6-4-03 [FR 03-13726]

Ocean and coastal resource management:

Coastal Zone Management Act; Federal consistency process; comments due by 7-11-03; published 6-11-03 [FR 03-14663]

DEFENSE DEPARTMENT

Navy Department

Privacy Act; implementation; comments due by 7-8-03;

published 5-9-03 [FR 03-11576]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:
Monitoring requirements; comments due by 7-7-03; published 5-8-03 [FR 03-11472]

Air quality implementation plans; approval and promulgation; various States:
California; comments due by 7-7-03; published 6-5-03 [FR 03-13882]
District of Columbia; comments due by 7-7-03; published 6-5-03 [FR 03-14033]
Kansas; comments due by 7-10-03; published 6-10-03 [FR 03-14456]
Minnesota; comments due by 7-7-03; published 6-5-03 [FR 03-13570]
North Carolina; comments due by 7-7-03; published 6-6-03 [FR 03-12023]

Radiation protection program:
Transuranic radioactive waste for disposal at Waste Isolation Pilot Plant; waste characterization program documents availability—
Hanford Site, WA; comments due by 7-7-03; published 6-4-03 [FR 03-14186]

Water programs:
Pollutants analysis test procedures; guidelines—
Detection and quantitation concepts assessment; technical support document; comments due by 7-10-03; published 3-12-03 [FR 03-05711]
Detection and quantitation procedures; comments due by 7-10-03; published 3-12-03 [FR 03-05712]

Water supply:
Underground injection control program—
Florida; Class I municipal wells; comments due by 7-7-03; published 5-5-03 [FR 03-10268]
Florida; Class I municipal wells; comments due by 7-7-03; published 5-5-03 [FR 03-10269]

FEDERAL COMMUNICATIONS COMMISSION

Digital television stations; table of assignments:
Montana; comments due by 7-7-03; published 5-21-03 [FR 03-12685]

Frequency allocations and radio treaty matters:
Non-geostationary orbit mobile-satellite service systems in 1.6/2.4 GHz bands; spectrum sharing plan; comments due by 7-7-03; published 6-5-03 [FR 03-14082]

Radio frequency devices:
Broadband power line systems
Correction; comments due by 7-7-03; published 6-2-03 [FR 03-13590]

Radio stations; table of assignments:
Georgia; comments due by 7-11-03; published 6-5-03 [FR 03-14092]
Tennessee; comments due by 7-11-03; published 6-5-03 [FR 03-14090]

FEDERAL MEDIATION AND CONCILIATION SERVICE

Access to Neutrals Initiative; Registry of Neutrals; comments due by 7-7-03; published 5-5-03 [FR 03-10959]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare and medicaid:
Skilled nursing facilities prospective payment system and consolidated billing; comments due by 7-7-03; published 6-10-03 [FR 03-14632]
Skilled nursing facilities; prospective payment system and consolidated billing; update; comments due by 7-7-03; published 5-16-03 [FR 03-11854]

Medicare:
Hospital inpatient prospective payment systems and 2004 FY rates; comments due by 7-8-03; published 5-19-03 [FR 03-11966]
Inpatient rehabilitation facility prospective payment system (2004 FY); comments due by 7-7-03; published 5-16-03 [FR 03-11829]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Public Health Security and Bioterrorism Preparedness and Response Act of 2002; implementation:
Food for human and animal consumption; manufacturing, processing, packing, transporting, distribution, etc.; records establishment and maintenance; comments due by 7-8-03; published 5-9-03 [FR 03-11460]
Food for human consumption; administrative detention; comments due by 7-8-03; published 5-9-03 [FR 03-11459]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety:
Columbia River, Astoria, OR; safety zone; comments due by 7-7-03; published 6-6-03 [FR 03-14305]
Milwaukee Harbor, WI; safety zone; comments due by 7-10-03; published 6-16-03 [FR 03-15093]
New London Harbor, CT; security zone; comments due by 7-7-03; published 5-6-03 [FR 03-11165]
San Diego Bay, CA; National City Marine Terminal; security zone; comments due by 7-7-03; published 5-7-03 [FR 03-11296]

HOMELAND SECURITY DEPARTMENT

Transportation Security Administration

Commercial driver's licenses; hazardous materials endorsement applications; security threat assessment standards; comments due by 7-7-03; published 5-5-03 [FR 03-10830]

INTERIOR DEPARTMENT

Indian Affairs Bureau

Land and water:
Indian Reservation Roads Program; comments due by 7-7-03; published 6-5-03 [FR 03-14184]

JUSTICE DEPARTMENT

Alcohol, Tobacco, Firearms, and Explosives Bureau

Firearms:
Commerce in explosives—
Fireworks; comments due by 7-7-03; published 6-23-03 [FR 03-15777]

JUSTICE DEPARTMENT

Drug Enforcement Administration

National Defense Authorization Act:
Federal departments or agencies may not sell from stocks any chemicals that could be used in manufacturing of controlled substances; provisions; comments due by 7-7-03; published 5-8-03 [FR 03-11393]

OFFICE OF MANAGEMENT AND BUDGET

Management and Budget Office

Grants, other financial assistance, and nonprocurement agreements; comments due by 7-7-03; published 6-6-03 [FR 03-14335]

PERSONNEL MANAGEMENT OFFICE

Excepted service:
Temporary organizations; comments due by 7-7-03; published 5-8-03 [FR 03-11398]

SMALL BUSINESS ADMINISTRATION

Small business size standards:
Small Business Innovation Research Program; small businesses owned and controlled by another business allowance; comments due by 7-7-03; published 6-4-03 [FR 03-14036]

SOCIAL SECURITY ADMINISTRATION

Social security benefits and supplemental security income:
Federal old-age, survivors, and disability benefits, and aged, blind, and disabled—
Immune system disorders; medical criteria for evaluation; comments due by 7-8-03; published 5-9-03 [FR 03-11491]

STATE DEPARTMENT

Visas; immigrant documentation:
Victims of terrorism; comments due by 7-7-03; published 5-8-03 [FR 03-11222]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:
Hazardous materials training requirements; air carriers and commercial operators; comments due by 7-7-03; published 5-8-03 [FR 03-11244]

Air traffic operating and flight rules, etc.:

Area navigation and miscellaneous amendments; comments due by 7-7-03; published 4-8-03 [FR 03-08287]

Airworthiness directives:

Airbus; comments due by 7-7-03; published 6-4-03 [FR 03-13977]

Boeing; comments due by 7-7-03; published 6-11-03 [FR 03-14666]

Dornier; comments due by 7-7-03; published 6-6-03 [FR 03-13974]

McDonnell Douglas; comments due by 7-7-03; published 5-23-03 [FR 03-12965]

MORAVAN a.s.; comments due by 7-7-03; published 6-2-03 [FR 03-13384]

Rolls-Royce Deutschland Ltd & Co KG Dart; comments due by 7-7-03; published 5-5-03 [FR 03-10984]

Rolls-Royce plc; comments due by 7-7-03; published 5-7-03 [FR 03-11267]

Airworthiness standards:

Special conditions—

Bombardier Model BD-100-1A10 airplane; automatic takeoff thrust control system; comments due by 7-7-03; published 6-6-03 [FR 03-14337]

Embraer Model ERJ-170 series airplanes; comments due by 7-7-03; published 6-5-03 [FR 03-14161]

Raytheon Aircraft Co. Model HS.125 series 700A and 700B airplanes; comments due by 7-7-03; published 6-6-03 [FR 03-14336]

Class E airspace; comments due by 7-10-03; published 5-30-03 [FR 03-13540]

Federal airways; comments due by 7-11-03; published 5-23-03 [FR 03-13036]

Noise standards:

Propeller-driven small airplanes; noise certification standards; comments due by 7-7-03; published 6-6-03 [FR 03-14310]

TRANSPORTATION DEPARTMENT

Federal Motor Carrier Safety Administration

Motor carrier safety standards:

Commercial driver's licenses with hazardous materials endorsement; limitations on issuance; comments due by 7-7-03; published 5-5-03 [FR 03-10829]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Anthropomorphic test devices:

Occupant crash protection—

Hybrid III test dummies; six-year-old weighted child dummy; comments due by 7-7-03; published 5-7-03 [FR 03-11294]

Motor vehicle safety standards:

Occupant crash protection—

Child restraint anchorage systems; comments due by 7-7-03; published 5-8-03 [FR 03-11293]

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Regulatory Flexibility Act Section 610 and plain language reviews; comments due by 7-7-03; published 4-7-03 [FR 03-08316]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Split-dollar life insurance arrangements; hearing; comments due by 7-8-03; published 5-9-03 [FR 03-11568]

Taxpayer accounting method changes; administrative simplification; comments due by 7-11-03; published 5-12-03 [FR 03-11765]

TREASURY DEPARTMENT

Currency and foreign transactions; financial reporting and recordkeeping requirements:

Bank Secrecy Act; implementation—

Commodity trading advisors; anti-money laundering programs; comments due by 7-7-03; published 5-5-03 [FR 03-10841]

Futures commission merchants and introducing brokers in commodities; definition as financial institutions; suspicious transaction reporting requirements; comments due by 7-7-03; published 5-5-03 [FR 03-10839]

Investment advisers; anti-money laundering programs; comments due by 7-7-03; published 5-5-03 [FR 03-10840]

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*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

S. 703/P.L. 108–37

To designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building". (June 26, 2003; 117 Stat. 832)

S.J. Res. 8/P.L. 108–38

Expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month. (June 26, 2003; 117 Stat. 833)

Last List June 27, 2003

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