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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB92

Common Crop Insurance Regulations; Apple Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes amendments to the Apple Crop Insurance Provisions. The intended effects of this action are to provide policy changes and clarify existing policy provisions to better meet the needs of the insured and to restrict the effect of the current Apple Crop Insurance Regulations to the 2004 and prior crop years.

DATES: Effective August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Risk Management Specialist, Research and Development, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 426, Kansas City, MO, 64133–4676, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through February 28, 2005.

Government Paperwork Elimination Act (GPEA) Compliance

In its efforts to comply with GPEA, FCIC requires all insurance providers delivering the crop insurance program to make all insurance documents available electronically and to permit producers to transact business electronically. Further, to the maximum extent practicable, FCIC transacts its business with insurance providers electronically.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, or a notice of loss and production information to determine an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 and 7 CFR part 400, subpart J for the informal administrative review process of good farming practices, as applicable, must be exhausted before any action for judicial review of any determination or action by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On March 29, 2004, FCIC published a notice of proposed rulemaking in the **Federal Register** at 69 FR 16181–16186 to revise 7 CFR 457.158 Apple Crop

Insurance. Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. 182 comments were received from reinsured companies, agents, State agriculture associations, insurance service organizations, producers, trade associations, and other interested parties. The comments received and FCIC's responses are as follows:

Comment: An insurance service organization commented there was a lack of information on how premium rates will be affected by the proposed changes regarding the increase of minimum standards from U.S. Cider Grade to U.S. No. 1 Processing Grade, and the additional causes of loss insured under the basic apple policy instead of under a Fresh Fruit Option. They also stated the proposed changes obviously increase potential losses and are likely to result in increased loss ratios unless the premium rates are revised. The proposed rule provides no information on what the premium rates will be as a result and whether RMA has conducted a rate analysis on the impact of the changes in this proposed rule and, if so, what are the results.

Response: In accordance with section 508(d) of the Federal Crop Insurance Act (Act), FCIC is required to set premiums at levels to cover anticipated losses and a reasonable reserve. FCIC has conducted a routine periodic premium rate review for the 2005 crop year that incorporates apple insurance loss data from the most recent years. Due to inclusion of this updated information, premium rate adjustments will occur for the 2005 crop year with general premium rate increases in many areas. Further, FCIC reviewed the effect on losses due to the specific change from U.S. Cider Grade to U.S. No. 1 Processing Grade in the basic apple policy and determined a relatively small premium rate increase is necessary to cover such losses. In addition, FCIC determined that the proposed changes to add additional perils under the Optional Coverage for Fresh Quality Adjustment will likely result in additional losses and premium rates will be increased to cover these anticipated losses. However, the amount of such increases is dependent on the area since certain areas may have a greater frequency of insured perils or the amount of damage may be more severe than in other areas and section 508(i)(1) of the Act.

Comment: An insurance service organization and an insurance provider stated with the current apple program experiencing a five-year loss ratio of 117 percent, a ten-year loss ratio of 106% (which included 5 years of CAT business of approx. 50 percent of total premium), and a premium rate factor of up to 1.60 for U.S. No. 1 Processing Grade apples with zero buy-back, it would appear the rates would need to be significantly higher. Additionally, the proposed policy covers additional perils not currently insured against under Quality Option A and asked whether allowing apple producers to insure only fresh apples under the Fresh Fruit Quality Option will lead to adverse selection when opting to insure one's worst blocks as fresh apples.

Response: Consistent with its statutory mandate, FCIC is adjusting premium rates to cover anticipated losses and a reasonable reserve, and a premium rate increase will be implemented in many areas as a result of program performance and the changes made to the policy in this rule, consistent with section 508(i)(1) of the Act. Further, additional causes of loss should not affect the producer's behavior with respect to insuring acreage as fresh or processing. The guarantee for fresh and processing is the same in the basic apple policy. It is only the price election that is different between fresh and processing. Only designated fresh apples are available under the Optional Coverage for Fresh Fruit Quality Adjustment. In addition, designation of apples as fresh or processing occurs on the acreage report, which is prior to the bloom. Therefore, it is highly unlikely that a producer could determine which block is worse at the time of designation. If producers do misreport, then misreporting procedures will apply in accordance with Basic Provisions and standard loss adjustment procedures. The Apple Loss Adjustment Standards Handbook is being updated to further address these issues.

Comment: An insurance service organization commented apple producers often complain the premium is too high for the Fresh Fruit Option B under the current apple policy. If the proposed apple policy and quality option are rated properly, it does not seem that it can (or should) be any cheaper.

Response: The current Fresh Fruit Option B may have resulted in indemnities paid for causes of loss not covered under Fresh Fruit Option B. Consequently, program history has caused the premium rates to increase to their current levels. However, the commenter is correct that since the proposed changes include additional causes of loss, it will likely result in premium rates increases and in some instances rate decreases due to favorable experience.

Comment: An insurance service organization commented as to the effect of the change from U.S. Cider Grade to U.S. No. 1 Processing Grade on existing APH databases and asked whether there be a conversion factor for existing databases to reflect the change in what is considered production to count.

Response: FCIC has attempted to determine whether the amount of Cider Grade apples could be determined so a conversion factor could be constructed. It discovered that there is not likely to be a large quantity of Cider Grade apples in the producer's APH and there is little or no information upon which to determine the amount of Cider Grade apples. Therefore, it could not determine an appropriate conversion factor. No change has been made.

Comment: An insurance service organization commented as to the effect of change from U.S. Cider Grade to U.S. No. 1 Processing Grade on existing APH databases and asked whether apples delivered to a juicer or packing shed warehouse will be assumed not to have made U.S. No. 1 Processing Grade.

Response: To obtain an indemnity, producers must prove that the apples did not meet the standards contained in the policy due to an insurable cause of loss. This means the mere fact that apples are delivered to either the juicer or packing shed warehouse is not relevant. The issue will be the grade of such apples and if a grade is not provided, they will be considered to be U.S. No. 1 Processing Grade.

Comment: An insurance service organization commented as to the effect of change from U.S. Cider Grade to U.S. No. 1 Processing Grade on existing APH databases and asked whether companies will have to wait until packing is complete and not count the culls as production. In the past, they have used records of bins or pounds delivered to the juicer or packing shed warehouse, but there will be no records available by production reporting date to show what apples made U.S. No. 1 Processing Grade.

Response: Companies will not have to wait until packing is complete. FCIC has received information from juicers or packing shed warehouses indicating that apples delivered to the juicer or packing shed warehouse have been at least U.S. No. 1 Processing Grade or better or they are not accepted. Further, records of bin or pounds delivered to the juicer or packing shed warehouse will be available by the production reporting date. Therefore, these delivery records can be used without adjustment.

Comment: An insurance service organization commented as to an apparent increased administrative

burden regarding the following: (1) Potential for an increased number of company inspections and field appraisals; (2) determining the amount of processing production to count for loss and APH purposes; (3) determining the amount of damage due to failure to color properly; and (4) providing acceptable production reports for APH and unit purposes.

Response: FCIC acknowledges there will be some increase in administrative burden because of the proposed changes. However, with the exception of task 3, the listed tasks are current insurance procedures. In addition, this proposed rule combines several options from the current program into one option and overall simplifies the apple crop insurance program, which should provide some program savings.

Comment: An insurance service organization and reinsured company stated that according to the proposed language for the basic apple coverage, the standard is U.S. No. 1 Processing Grade (change from U.S. Cider Grade) and U.S. Fancy Grade for the Fresh Fruit Quality Option ''* * * or such other standard contained in the Special Provisions.'' The commenters asked what other standards might be considered and in what regions. The commenters state that making such a change in the Special Provisions (which are not published for public comment) could have a significant impact on the policy in terms of marketing, risk management, premium, liability, and loss ratios.

Response: FCIC added the language about standards contained in the Special Provisions to provide for the use of existing or acceptable apple grade standards that are approved and enforced by individual states, regions, or organizations. This is to prevent producers from being penalized because their state or area uses a slightly different standard. For example, Washington Fancy Grade is comparable to U.S. Fancy Grade. Such standards will be included in the Special Provisions, and any appropriate premium rate adjustment will be made as necessary. However, for the purposes of determining damage, only those standards comparable to U.S. No. 1 Processing Grade and U.S. Fancy Grade will be used.

Comment: An insurance service organization recommended since so many references to the grade standards seem to include ''* * * the United States Standards for Grades of Apples or such other standard contained in the Special Provisions,'' RMA might consider setting this up as the definition for ''grade standards'' instead of having to repeat this again and again. Also, the commenter stated the phrase ''on the Special Provisions'' should be revised to ''in the Special Provisions''.

Response: FCIC agrees that it can create a definition of ''grade standards'' that would include the United States Standards for Grades of Apples or such other standard contained in the Special Provisions and eliminate the duplicate references. FCIC also agrees with the commenter regarding the revision of the phrase ''on the Special Provisions'' and replacing it with ''in the Special Provisions.''

Comment: An insurance service organization recommended FCIC to consider revising the definition of ''damaged'' production as not marketable and redefine ''marketable'' as what is marketable rather than what is not marketable (instead of having both definitions stated negatively).

Response: Under the crop insurance program, the burden has always been on the producer to prove that the crop has been damaged by an insurable cause of loss. Consistent with this requirement, the apples are presumed marketable unless the producer can prove they qualify as damaged apple production. Therefore, the definition is intended to inform the producer of the burden that must be met. If the suggested revision were adopted, the apples would be presumed to be damaged unless they could be proved to be marketable. This may suggest that the burden had switched to the insurance provider to show the apples were marketable. This is not the intent of these definitions. Therefore, no change has been made.

Comment: An insurance service organization stated FCIC should capitalize the entire title of ''United States Standards for Grades of Apples for Processing'' (''processing'' is not capitalized in the proposed language).

Response: FCIC has accepted a previous suggestion to create a definition of ''grading standards'' that incorporates the above stated language. FCIC has also accepted the recommended change regarding capitalization in that definition.

Comment: An insurance service organization recommended FCIC consider revising the definition of ''damaged apple production'' under the Optional Coverage for Fresh Fruit Quality Adjustment to be more readily apparent than referring to ''section 12 only'' and ''sections 12 and 14''. If this is not changed, consider if it is necessary to refer to section 12 again (with section 14) in part B.

Response: FCIC agrees that the standard in part B. is not applicable to section 12. Insurance against apples not grading U.S. Fancy or better, or such other grade standard contained in the Special Provisions is only provided under section 14. The definition has been revised accordingly.

Comment: An insurance service organization asked that with the new definitions of ''fresh apples'' and ''processing apples'', what the effect will be on APH procedures. The commenter also asked whether production to count for APH purposes will continue to include processing production that is not included for loss purposes when the Optional Coverage for Fresh Fruit Quality Adjustment is elected. Further, the commenter asked whether these definitions will be carried through the entire APH and claims processes so only fresh production would be counted on both sides under the Optional Coverage for Fresh Fruit Quality Adjustment. Lastly, the commenter asked whether they will be required to keep two sets of APH databases (one for processing and one for fresh only).

Response: Allowing fresh and processing apples in the same unit should not have any effect on the APH procedures. The APH for the unit will apply equally to all acreage in the unit, regardless of whether such acreage is intended for fresh or processing apples. As with the current crop policy, the production to count is determined for the whole unit under section 12 and will be used for APH purposes regardless of whether the Optional Coverage for Fresh Fruit Quality Adjustment is elected. Section 12 has been revised to make this clear. Therefore, there will only be one APH for the unit. Coverage under the Optional Coverage for Fresh Fruit Quality Adjustment starts with the premise that all production will grade at least U.S. Fancy or better, or such other grade standard contained in the Special Provisions. Therefore, the total amount of apples grading at least U.S. No. 1 Processing is used to determine the APH under the Optional Coverage for Fresh Fruit Quality Adjustment as well as the base coverage under section 12. The APH procedures contained in the Crop Insurance Handbook and Apple Loss Adjustment Standards Handbook will be consistent with the policy.

Comment: An insurance service organization asked: whether the distinction between ''fresh'' and ''processing'' consumption is sufficiently understood by all parties involved in the Apple policy and whether the reference to production sold ''for human consumption'' in the definition of ''harvest'' should also be included in one or more of the

definitions regarding different types of production and/or perhaps add a definition to identify the differences between fresh and processing.

Response: FCIC has revised the definitions to clarify that fresh apples are those that are sold in the basic form and processing apples are those that have undergone a change to their basic form such as peeling, juicing, or crushing, etc. FCIC has also removed the references to the grade standards because it created an ambiguity regarding coverage since a fresh apple was defined as grading U.S. Fancy or better, or such other standard contained in the Special Provisions and only fresh apples qualified under the Optional Coverage for Fresh Fruit Quality Adjustment. This would effectively negate any coverage under that Option because the apples have to grade as U.S. Fancy or better, or such other standard contained in the Special Provisions to even qualify for coverage.

Comment: An insurance service organization asked whether there should be a specific connection between the definitions of ''harvest'' and ''marketable. The commenter also asked if production were not considered harvested, would it ever be considered marketable. (Presumably, this could be true of apples not picked from the tree that are appraised as meeting the appropriate grade.)

Response: Section 12 makes it clear that the marketable standard applies to both appraised and harvested production. The issue for coverage is only if the apple would meet the appropriate grade standard, not whether the apple was harvested. If the apple meets the appropriate grade standard, it is considered marketable. Therefore, no connection needs to be made between the definitions of ''marketable'' and ''harvested''. No change has been made.

Comment: An insurance service organization asked whether by adding the definition of ''mature,'' is it RMA's intention that this definition takes precedence over the definition of ''mature'' contained in the United States Standards for Grades of Apples currently used in determining whether an apple meets the grade of U.S. Fancy?''

Response: It is not FCIC's intent for the new definition of ''mature'' to take precedence over the definitions in the United States Standards for Grades of Apples. Therefore, FCIC has revised the definition to specify that mature is whatever the United States Standards for Grades of Apples defines it to be.

Comment: An insurance service organization stated the definition ''non-contiguous'' is the same as the current definition in the 2004 Basic Provisions, but the Basic Provisions Proposed Rule is pending revision that requires separate ownership. The commenter asked if this definition remains in the Apple Crop Provisions, whether it would take precedence over the definition in the Basic Provisions. There have been a number of questions concerning what is contiguous or non-contiguous, and it has been difficult to obtain an official answer from RMA, in part because of differing definitions in different regions.

Response: FCIC agrees with the commenter and has removed the definition of non-contiguous in section 1 of these Crop Provisions because it is defined in the Basic Provisions.

Comment: An insurance service organization noted the definition of ''pound'' was deleted from the proposed rule. The commenter asked whether the generic definition of a ''pound'' as sixteen ounces avoirdupois no longer needed for apples. The term is used in the definitions of ''bin'', box,'' and ''bushel.''

Response: FCIC agrees with the commenter. Therefore, the definition of ''pound'' as sixteen ounces avoirdupois has been added to these Crop Provisions.

Comment: An insurance service organization commented on the definition ''production guarantee (per acre)''. This definition has been revised to allow the guarantee to be given as a number of bins as well as boxes or bushels. The commenter asked whether some areas use bins instead of boxes or bushels as the unit of measure. The commenter asked whether the definition include the phrase ''as applicable'' (as in the definition of ''damaged apple production'') to clarify that the unit of measure is not the insured's choice.

Response: There are areas where the unit of measure may be bins, bushels, or boxes. However, it was not FCIC's intent to establish production guarantees in terms of bins. Bins will need to be converted to boxes or bushels. FCIC has revised the definition of ''production guarantee (per acre)'' accordingly.

Comment: An insurance service organization disagrees with the proposed definitions of ''russeting'' and ''sunburn'' in the Crop Provisions. The commenter asked if they replace the terms ''russeting'' and ''sunburn'' as they appear in the grade standards, or is a different definition provided in the Special Provisions. The commenter states if the terms ''russeting'' and ''sunburn'' are referred to in the grade standards then policyholders will need to have a copy of the standards.

Response: Since the determination of production to count is dependent on whether the apples meet certain grade standards, it is appropriate for the definitions of certain damage be the definition contain in such standards. If the definitions were different, it could cause confusion with respect to whether the apples actually meet the requisite grade. Since apples are required to be graded, producers have access to the grade standards and they do not need to be provided. FCIC has revised the definitions of ''russeting'' and ''sunburn'' for clarity. To clarify further, FCIC has modified the cause of loss section 10 to specify the causes of ''russeting'' and ''sunburn''.

Comment: An insurance service organization commented on the definition of ''type'' and asked how varietal groups are going to appear in the Special Provisions. The commenter states that currently they are included as a type but the proposed Crop Provisions list only fresh and processing apples as types.

Response: FCIC agrees the definition of ''type'' should be clarified and has revised the definition to include varietal groups. Consistent with this change, FCIC has removed the references to varietal groups in section 3.

Comment: An insurance service organization suggested the definition of ''type'' may not need to begin with the word ''Either'.

Response: FCIC agrees and has made the change accordingly.

Comment: An insurance service organization questioned section 2(a)(1) and (2) and asked whether both non-contiguous land and different varietal groups must be satisfied in order to qualify for optional units. For example, if an insured has a block of Varietal Group A apples contiguous with a block of Varietal Group B apples, the commenter stated this would not be eligible for optional units since the blocks are contiguous even though they have different varietal groups. The commenter stated that if this is the intent, it is a change from the current policy under Varietal Group Option C.

Response: FCIC will allow optional units for either non-contiguous land or by varietal group. FCIC has revised this section to remove the word, ''and'' and replace it with the word ''or'' to clarify this intent.

Comment: An insurance service organization commented on section 2(a)(2) noting there have been concerns with allowing optional units by varietal group without having any indication of what varietal groups might be specified in the actuarial documents. The commenter asked whether the varietal

groups be standard or vary from one region to another or one county to another.

Response: The varietal groups are the same as in the past, and will remain consistent from region to region. Varietal groupings are reviewed annually and changes are specified in the Special Provisions.

Comment: An insurance service organization commented on section 2(a)(2) asking if the proposed changes go through, and optional units by varietal group are a part of the basic policy whether all existing databases will have to be divided according to varietal group. The commenter states that if separate varietal groups were designated in the Special Provisions, databases would have to be set up accordingly, even on CAT policies. It claims that this change could create quite an administrative burden, including large numbers of inspections to provide acceptable separate records for optional unit purposes.

Response: Databases would have to be established according to the types specified in the Special Provisions. Since varietal groups are identified as a type under the current policy, separate databases are already required. Therefore, this change will not increase the administrative burden. No change has been made.

Comment: An insurance service organization commented on section 2(a)(2) stating they had received one comment recommending the varietal groups be divided according to time of maturity or normal harvest dates instead of by price. The commenter stated this would allow loss adjustments to be made more timely and efficiently by unit. If every unit must be appraised before harvest, it would make sense to have units composed of varieties that normally will be harvested at similar times.

Response: The recommendation to change the varietal groupings to a maturity basis rather than by price has merit. However, this would add increased complexity since there will be different prices within each unit. There is insufficient time to assess the impact of these changes on the program and make these changes prior to the start of the 2005 crop year. The recommendations will be considered for the future. Therefore, no change has been made.

Comment: Three trade associations and five growers commented on section 2 and asked FCIC to consider allowing growers to define orchards as smaller units using public right-of-ways or other discernible breaks. The current policy prohibits use of public and private right-of-ways to separate contiguous orchard blocks.

Response: The language in the proposed rule concerning optional unit division guidelines is consistent with other perennial crops. There is no rational basis to allow such changes in this policy but not in the other similar perennial crops. Such changes would have to be made to the definition of ''non-contiguous'' in the Basic Provisions and apply to all similarly situated crops. Further, FCIC is conducting an evaluation regarding optional units and the appropriate rates. Until such evaluation is done, it would not be appropriate to create smaller optional units than currently allowed under the Basic Provisions or other Crop Provisions.

Comment: An insurance service organization commented on section 2(b) and asked FCIC what the qualifications are for optional units. For example, an insured with buy-up coverage and separate records by tract does not qualify for optional units or is that covered sufficiently by the Basic Provisions.

Response: The Basic Provisions contain the record keeping and other requirements to qualify for optional units. Therefore, the provisions regarding coverage and records have been removed from the Crop Provisions and the provisions in the Basic Provisions will control.

Comment: An insurance service organization commented that section 3(b)(1), requires growers to report any changes to the orchards that would affect the guarantee, while section 3(c) states that the guarantee will be reduced in the event of certain changes to the orchard. The commenter suggested the following revision to section 3(c), ''We will reduce your production guarantee, or assess uninsured causes of loss as necessary * * *'' as an alternative in cases such as unreported tree removals.

Response: To allow both an adjustment in the guarantee and assessment of uninsured causes of loss would add an unnecessary complexity to the program. Without language to distinguish which action would result in an adjustment of the yield and which would result in assessment of uninsured causes of loss, the provisions may be applied differently by the different insurance providers. Further, the factors contained in section 3(a) can affect the yield potential of the orchard so adjustments are appropriately made to the guarantee. In addition, the language is consistent with most other perennial crops. Therefore, no change has been made.

Comment: An insurance service organization commented on section 4 by suggesting FCIC add a missing word ''date'' in phrase ''* * * cancellation date for California * * *''.

Response: FCIC agrees and has added the word ''date'' to the sentence.

Comment: An insurance service organization commented on section 5(b) by asking whether it is necessary to refer to ''whichever is later'' of the cancellation and termination dates. If the insurance provider is canceling a policy rather than terminating it, the commenter asked whether the cancellation date would apply even if it were earlier than the termination date.

Response: There is nothing in this provision that would permit the termination date to apply to cancellation of the policy or vice versa. However, this point is moot because the cancellation and termination dates are the same. This language is included because the insurance period ends when the crop is harvested and for the subsequent crop year, insurance attaches on the next day. This means that insurance could attach before the cancellation or termination dates. Questions had arisen regarding whether insurance coverage was provided during that period between insurance attachment and termination or cancellation and whether premium would then be owed. FCIC added this provision to clarify that insurance is not provided and no premium is owed for that period. The term ''whichever is later'' is necessary just to identify the applicable time period in the event the termination or cancellation date is changed so they are not the same date.

Comment: An insurance service organization suggested that section 5(b) be revised to read, ''* * * canceled or terminated by us in accordance with the terms of the policy after insurance attached for the crop year but on or before the applicable cancellation or termination date, insurance will be considered not to have attached * * *'' or ''* * * will not be considered to have attached * * *'' but not ''* * * to not have attached * * *''.

Response: FCIC agrees that the suggested language is more grammatically correct and has revised the provision accordingly.

Comment: An insurance service organization commented on section 7(b) and asked why this provision is not being revised to require the acreage meet production insurability requirements within a specific time frame to remain insurable, as has been done with other fruit policies (such as pears and grapes) as they were revised. For example, once apples in Area A

produce an average of 10 bins, they are insurable from that time on. However, when that 10-bin year rolls off the 5-year database, that unit would appear to be uninsurable.

Response: FCIC agrees that the trees and production should be reviewed periodically to ensure that the minimum threshold for insurability is met. FCIC has revised the provision to require that the minimum threshold of production must be met at least one out of the four previous years.

Comment: An insurance service organization commented on section 7(b) and suggested FCIC rearrange the language as follows to reduce repeated phrases.

''(b) That are grown on tree varieties that are adapted to the area and have produced at least an average of:

''(1) 10 bins of apples per acre in Area A;

''(2) 150 bushels of apples per acre in Area B;

''(3) 200 bushels of apples per acre in Area C.''

Response: FCIC agrees with the commenter and has revised the provisions accordingly.

Comment: An insurance service organization commented on section 8 stating this allows insurance on apples interplanted with another perennial crop subject to inspection. Other ''interplanted'' references are in section 3(b)(4) and 3(c)(4)(i). The commenter states that these references should be in separate sections but asks whether cross referencing be considered to clarify this information.

Response: FCIC realizes that other sections of the provisions refer to interplanting with another perennial crop, but section 8 refers only to the insurability of the apples, and other sections refer to reporting of the interplanted crop and the possible effect on the coverage. Since the purposes are different, it may cause confusion to cross reference other sections. Therefore, no change has been made.

Comment: An insurance service organization commented on section 9(a)(1) stating that by allowing 20 days instead of the current 10 days to inspect initial applications is an improvement, but 30 days would be even better and would match the amount of time allowed in some other perennial crop policies.

Response: Crops that allow 30 days to inspect the crop are usually those where there is little risk of loss within the first 30 days, such as pecans, which are produced mostly in the south. However, apples are produced all over the country and in areas in the north, the risk can increase as the insurance period progresses. FCIC determined that, while there was universal agreement that 10 days was not an adequate amount of time, 30 days would be too long. While the risk still exists by allowing 20 days, it provides a compromise between the interests of producers and the insurance providers. Therefore, no change has been made.

Comment: An insurance service organization commented on section 9(a)(1) stating the proposed language is poorly written and suggest FCIC rearrange the first two sentences to read as follows:

''(1) For the year of application, coverage begins:

''(a) In California, February 1 * * *

''(b) In all other states, November 21* * *

''However, if your application is received by us less than 20 days prior to this date, insurance will attach on the 20th day * * *''

Response: FCIC cannot adopt the recommended change because it is no longer permitted to have undesignated provisions in regulations and the sentence beginning with ''However,'' is undesignated and in the recommended format, there is no appropriate designation. Therefore, no change has been made.

Comment: An insurance service organization commented the last sentence in section 9(a)(1) of the current apple policy is ''You must provide any information we require for the crop to determine the condition of the orchard.'' Proposed language changes this to ''* * * we require for the crop or to determine the condition of the apple acreage.'' The commenter asked whether the information that can be required has been changed.

Response: There has been a change in the information that can be required. Originally, the provision only permitted requests for information regarding the crop and that information would be used to determine the condition of the orchard. Under the proposed language, information can be requested regarding the crop or the acreage. Since there are separate insurability requirements for the crop and the acreage, insurance providers need access to the relevant information regarding both. No change has been made.

Comment: An insurance service organization suggested FCIC modify section 9(a)(2) to delete the comma after ''year of application''. Also, consider changing the opening phrase to ''For each subsequent crop year that the policy remains.* * *'' Since the preceding item in section, 9(a)(1) addresses ''the year of application'', and is redundant.

Response: FCIC agrees and has revised the provisions accordingly.

Comment: An insurance service organization commented on section 9(a)(3) stating the summary of changes in the ''Background'' portion of the proposed rule indicates the calendar date for the end of the insurance period was changed because California varieties ''are typically harvested later than other varieties.'' However, the date listed for California remains at November 5 with the possibility of a different date in the Special Provisions. All other states changed from November 5 to November 20. In addition, it appears that only California counties are eligible for a different calendar date for the end of the insurance period in the Special Provisions without having to run the Apple Crop Provisions through another proposed rule. If this is the intent, the commenter suggests revising the language to read as follows:

''(3) The calendar date for the end of the insurance period for each crop year is:

''(a) November 5 in California, unless otherwise specified in the Special Provisions;

''(b) November 20 in all other states.''

Response: FCIC agrees the proposed language was not correct. The reference to the different insurance period for California was intended to refer to the start of the insurance period, not the end of the period. However, flexibility was needed in those cases where the varieties are harvested later but this could apply to all states, not just California. FCIC has revised the provision to specify that the calendar date for the end of the insurance period for all states is November 5 or such other date as specified in the Special Provisions. This allows the flexibility for all states to have the end of the insurance period adjusted as necessary.

Comment: An insurance service organization questioned section 9(a)(4) and the need for stating, ''Cancellation and termination provisions * * * are contained in section 5 of these crop provisions'' in this section.

Response: Language is needed in section 9 regarding the effect of cancellation or termination after insurance has attached because it would affect the insurance period. However, FCIC has redrafted the provision for clarity.

Comment: An insurance service organization commented on section 9(b)(2) noting they had received one recommendation that the policy language needs to clarify that premium is still due if the insurable share is relinquished after the acreage reporting date.

Response: FCIC agrees the silence regarding the effect of relinquishing the insurable share after the acreage reporting date may create an ambiguity regarding whether such premium is owed. Since this issue is not clearly addressed in section 7 of the Basic Provisions, FCIC has revised the provisions to clarify that premium is still owed if the insurable share is relinquished after the acreage reporting date.

Comment: An insurance service organization commented that the cause of loss in section 10(a) stating ''Fire'' should be revised and clarified by including ''Fire, due to natural causes, unless weeds * * *''.

Response: This change is not necessary because the Act requires all causes of loss to be natural causes, not just fire. Specifically referring to natural disasters with respect to fire but not the other causes of loss could create the impression that other such causes could be something other than from natural causes. Further, section 12 of the Basic Provisions now specifically refers to ''unavoidable'' causes of loss due to ''naturally occurring events''. No change has been made.

Comment: An insurance service organization and eighteen growers commented on section 10(a)(7) stating the language is too ambiguous and references a condition and not a natural insured cause of loss.

Response: FCIC realizes some terms in section 10(a)(7) are not a natural insured cause of loss but rather a condition resulting from a natural insured cause of loss. However, in the past there have been questions regarding the insurability of these conditions even if occurring as a result of a covered cause of loss. FCIC has revised the language to clarify that these conditions are covered if caused by an insured cause of loss and causes the apples to fail to meet the applicable grade standards in the policy.

Comment: An insurance service organization stated it is concerned that all policies, including CAT policies, will be covered for all insurable causes that result in apple production grading less than U.S. No.1 Processing Grade.

Response: Under the proposed rule, all policies, including CAT policies, are covered by all insurable causes that result in the apple production grading less than U.S. No.1 Processing Grade. However, as stated above, the premium will be increased to cover the expected losses with the additional coverage, consistent with section 508(i)(1) of the Act. Therefore, no change has been made.

Comment: An insurance service organization expressed concerns regarding the increase of minimum standards from U.S. Cider Grade to U.S. No. 1 Processing Grade. This increase could make it difficult for loss adjusters to determine if apples meet the U.S. No. 1 Processing Grade.

Response: FCIC disagrees with the commenter. This is not significantly different than other loss adjustment procedures that require knowledge of variety, crop maturity, and weather-related losses. Further, the burden is on the producer to prove the apples failed to grade U.S. No. 1 Processing due to an insurable cause of loss or else the apples are considered as production to count. Therefore, the apples will have to be graded, and this grade will be used to determine whether the apples count as production to count. Specific instructions will be available in the Apple Loss Adjustment Standards Handbook.

Comment: An insurance service organization asked why FCIC is including damages for russeting, sunburn, and failure to size, shape, or color properly, when the standard Apple Policy insures only processing apples and none of these defects are included in the United States Standards for Grades of Apples.

Response: The causes of loss in section 10 applies to both the basic coverage and the Optional Coverage for Fresh Fruit Quality Adjustment. Such standards are applicable to the grading standards for U.S. Fancy. However, to eliminate the ambiguity regarding the applicability of these conditions and the other stated insurable causes of loss, section 10 has been revised to clarify that insurance is provided against the named insurable causes of loss that results in damaged apple production. Therefore, to the extent the above stated conditions are not caused by an insurable cause of loss and do not cause the apples to grade less than U.S. No. 1 Processing or U.S. Fancy, as applicable, the apples will still be considered as production to count.

Comment: An insurance service organization asks if failure of the fruit to size, shape, or color properly is always due to natural causes.

Response: No, if failure of the fruit to size, shape, or color properly is due to failure of the insured to follow good farming practices, it is not an insurable cause of loss. The insured must be able to prove that the failure of the fruit to size, shape, or color properly is specifically due to an insured cause of loss.

Comment: An insurance service organization states the color of apples could change on a daily basis due to weather conditions and varietal characteristics. The commenter asks how insurance providers are to adjust these losses.

Response: This is not significantly different than other loss adjustment procedures that require knowledge of variety, crop maturity, and weather-related losses. Loss adjuster will determine if the damage was caused by an insurable cause of loss and graders will grade the apples and these grades will be used to adjust losses. Specific instructions will be available in the Apple Loss Adjustment Standards Handbook. Therefore, no change has been made.

Comment: An insurance service organization asked why ''disease'' and ''insect infestation'' were listed as excluded perils, when all current provisions include them as covered perils with exclusions. They also asked under section 10(b)(1)(ii) how adverse weather causes disease or insect infestation.

Response: For consistency with other perennial crops, FCIC is moving the provisions back to the insured cause of loss provisions. However, this does not change the responsibility of the producer to prove that the disease or insect infestation occurred and that all proper control measures have been used.

Comment: An insurance service organization commented on the removal of the provisions from the current Apple Crop Provisions, which state: ''Mechanical damage including, but not limited to, limb rubs, scars and punctures,'' and asked if mechanical damage will continue to be an uninsured cause of loss since it is not due to a natural cause.

Response: The language in the old policy created the presumption that limb rub, scars, and punctures were always caused by mechanical damage, which may not be the case. By removing this exclusion, mechanical damage remains an uninsured cause of loss because it is not a natural cause but any limb rubs, scars, and punctures due to an insurable cause of loss are covered if they result in damaged apple production. For example, high winds can inflict these damages and would be covered under the policy. Further, apples adjusted prior to harvest will not normally have mechanical damage. Therefore, no change has been made.

Comment: An insurance service organization commented on section 11(c) asking why the current policy language ''* * * we may consider all such production to be undamaged * * *'' has changed to a passive tone ''* * * all such production will be considered undamaged * * *''

Response: FCIC agrees with the commenter and has revised the statement accordingly.

Comment: An insurance service organization questioned the necessity of the phrase in section 12 in the Basic Coverage example ''that graded U.S. No. 1 Processing or better'' after ''$4.76 per bushel for processing apples'' (covered by the new ''fresh apples'' definition). The commenter stated that if it were not deleted, then it would seem the reference to fresh apples should include ''$9.10 per bushel for fresh apples that graded U.S. Fancy or better''.

Response: FCIC agrees that the reference to the grade standard is not appropriate after the price for processing apples. Including the references would suggest that the fresh apples must grade U.S. Fancy or an indemnity may be paid but this is not the case. As long as the apples grade U.S. No. 1 Processing or higher, they are counted as production to count. The price is only used to determine the value of such production. However, it still needs to be made clear that the fresh and processing apples produced are marketable. FCIC has revised the provision to specify that the amount produced is marketable.

Comment: An insurance service organization commented on revising section 12, Basic Coverage example, step 1 from ''6,000-bushels guarantee'' and ''3,000-bushels guarantee'' to ''6,000 bushel fresh * * * 3,000 bushel processing * * *''

Response: Step 1 states that the 6,000 bushel guarantee is for fresh apples and the 3,000 bushel guarantee is for processing apples. No further reference to fresh or processing apples is necessary. Therefore, no change has been made.

Comment: An insurance service organization noted that in section 12, Basic Coverage example, steps 6 and 7, the figures are incorrect. The indemnity amount should be $18,620.00 instead of $18,540.00.

Response: FCIC agrees and has made the correction accordingly.

Comment: An insurance service organization suggested moving the Basic Coverage example to the end of section 12 or moving it to the end of the Crop Provisions.

Response: FCIC agrees with the commenter. Since the example also relies on a determination of production to count, it should be moved to after section 12(c).

Comment: An insurance service organization commented that the Basic Coverage example should include the term ''bins'' in the reference to total apple production (in boxes, bins, or bushels).

Response: Since FCIC has removed the reference to ''bins'' from the definition of ''production guarantee (per acre),'' bins are no longer to be used as a measure of production for the purposes of the guarantee or production to count. Bins must be converted to bushels or boxes. Therefore, no change has been made.

Comment: An insurance service organization commented on section 12(c)(3) stating this should be an unnumbered paragraph following section 12(c)(2) or renumbered as section 12(d). It does not flow from the lead-in of section 12(c) indicating the total production to count.

Response: FCIC agrees but it has removed section 12(c)(3) because it is not necessary. Section 14 has been revised to specify it is adjusting the harvested and appraised marketable fresh apple production.

Comment: An insurance service organization recommended reversing the order in section 14(b)(1) and (2) to address what is required to be eligible before specifying the deadlines involved.

Response: FCIC agrees and has revised the provisions accordingly.

Comment: An insurance service organization recommended rewording the language in section 14(b)(4) to state: ''In lieu of sections 12(c)(1)(iii) and (iv) and (2), the production to count for appraised and harvested production for fresh apple acreage will include all fresh apple production in accordance with this option.''

Response: FCIC agrees the language must be modified and has revised it to clarify that all appraised and harvested marketable production of fresh apples is included as production to count and such production may be adjusted under the option.

Comment: An insurance service organization commented on the language in the current Fresh Fruit Option B that refers to adjusting production to count when damaged, harvested production ''does not grade 80 percent U.S. Fancy or better.'' The commenter stated that the proposed language for the Optional Coverage for Fresh Fruit Quality Adjustment says adjustments apply when damage results in production where ''* * * 80 percent or more of the fresh apples do not grade U.S. Fancy or better * * *'' The commenter states that the proposed language appears to be the opposite from before and question whether this was intended. The commenter asks if it is really the intent to adjust the production to count only when less than 20 percent grade U.S. Fancy or better.

Response: The intent is to provide adjustments in production to count in the Optional Coverage for Fresh Fruit Quality Adjustment when the fresh apple production is damaged to the extent that more than 20 percent of the apples do not grade U.S. Fancy or better. FCIC has made the appropriate changes to the Optional Coverage for Fresh Fruit Quality Adjustment.

Comment: An insurance service organization commented on the Optional Coverage for Fresh Fruit Quality Adjustment example, stating that it is difficult to follow how a loss is calculated under the Optional Coverage for Fresh Fruit Quality Adjustment example as written. The commenter claims that step (4) in this example is confusing as described. The commenter also states that it needs to be clearer on where the 55 percent and 45 percent figures come from since 55 percent ends up being both the percent grading U.S. Fancy or better and the total percentage reduction of the production to count from section 14(b)(5).

Response: FCIC agrees with the commenter. Therefore, the example has been modified for clarification.

Comment: An insurance service organization and insurance provider commented on the Optional Coverage for Fresh Fruit Quality Adjustment example, stating that both examples (Basic Coverage and Optional Coverage for Fresh Fruit Quality Adjustment examples) should be at the end of the Crop Provisions. Since the introductory information is identical, it would not have to be repeated and the separate calculated examples would be identified in accordance to the type of coverage involved.

Response: The introductory text is the same in most instances but the example in section 14 requires the apple production not grading U.S. Fancy, which is immaterial to the example under section 12. FCIC has determined that it would be better to keep the examples separate to avoid any confusion regarding the applicability of the provisions in section 12 and those in section 14. Therefore, no change has been made.

In addition to the changes described above, FCIC has made minor editorial and the following changes:

1. Removed section 3(d) because it no longer is applicable and has been removed from the Basic Provisions.

2. Revised section 6 to specify that blocks of apple acreage grown for processing are not eligible for the Optional Coverage for Fresh Quality

Adjustment option contained in section 14 of these Crop Provisions.

Good cause is shown to make this rule effective less than 30 days after publication in the **Federal Register**. Good cause to make the rule effective less than 30 days after publication when the 30 day delay in the effective date is impracticable, unnecessary, or contrary to the public interest.

With respect to the provisions of this rule, it would be contrary to the public interest to delay implementation of improved insurance benefits until the 2006 crop year. The public interest is served by improving the insurance product as follows: (1) Revising Fresh Fruit Option B (now the Optional Coverage for Fresh Fruit Quality Adjustment) to provide coverage for all perils so that producers receive adequate coverage, thereby stabilizing the farm economy and reducing the need for ad hoc disaster payment; (2) eliminating several options under the current program, which will eliminate program complexity and confusion; (3) incorporating sunburn caused by excessive sun as an insured cause of loss under the Basic Apple Crop Provisions to provide additional coverage, thereby stabilizing the farm economy and reducing the need for ad hoc disaster payment; and (4) providing simplification and clarity to the apple crop insurance program.

If FCIC is required to delay the implementation of this rule 30 days after the date it is published, the provisions of this rule could not be implemented until the 2006 crop year. This would mean the affected producers would be without the benefits described above for an additional year.

For the reasons stated above, good cause exists to make these policy changes less than 30 days after the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 457

Crop insurance, Reporting and recordkeeping requirements.

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 for the 2005 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

■ 2. Revise § 457.158 as follows:

§ 457.158 Apple crop insurance provisions.

The Apple Crop Insurance Provisions for the 2005 and succeeding crop years are as follows:

* * * * *

1. *Definitions*

Apple production. All production of fresh apples and processing apples from the insurable acreage.

Area A. A geographic area that includes Montana, Wyoming, Utah, New Mexico and all states west thereof.

Area B. A geographic area that includes all states not included in Area A, except Colorado.

Area C. Colorado.

Bin. A container that contains a minimum of 875 pounds of apples or another quantity as designated in the Special Provisions.

Box. A container that contains 35 pounds of apples or another quantity as designated in the Special Provisions.

Bushel. In all states except Colorado, 42 pounds of apples. In Colorado, 40 pounds of apples.

Damaged apple production.

(1) With respect to losses calculated under section 12 only, the percentage of fresh or processing apple production that fails to grade U.S. No. 1 Processing or better in accordance with the grade standards, within each lot, bin, bushel or box, as applicable, due to an insurable cause of loss; or

(2) With respect to losses calculated under section 14, the percentage of fresh apple production that fails to grade U.S. Fancy or better in accordance with the grade standards, within each lot, bin, bushel, or box, as applicable, due to an insurable cause of loss.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, buyer, or broker. Examples of direct marketing include selling through an on-farm or roadside stand, or a farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Fresh apples. Apple production:

(1) That is sold, or could be sold, for consumption without undergoing any change in its basic form, such as peeling, juicing, crushing, etc.; and

(2) From acreage that is reported as fresh apples on the acreage report.

Grade standards. The United States Standards for Grades of Apples, the United States Standards for Grades of Apples for Processing, or such other standards contained in the Special Provisions.

Harvest. The picking of mature apples from the trees or collecting of mature apples from the ground. Apples collected from the ground that cannot be sold for human consumption will not be considered harvested.

Lot. A quantity of production that can be separated from other quantities of production by grade characteristics, load, location or other distinctive features.

Marketable. Apple production that is not damaged apple production.

Mature. Apples defined as ''mature'' under the applicable grade standards.

Pounds. Sixteen (16) ounces avoirdupois.

Processing apples. Apple production:

(1) That is sold after it had undergone a change to its basic structure such as peeling, juicing, crushing, etc.; and

(2) From acreage designated as processing apples on the acreage report.

Production guarantee (per acre). The quantity of apples in boxes or bushels determined by multiplying the approved APH yield per acre by the coverage level percentage you elect. If the production of apples has been measured in bins, the amount must be converted to boxes or bushels.

Russeting. A defect on the surface of the apple as described in the grade standards.

Sunburn. A defect as described in the grade standards.

Type. Fresh, processing, or varietal group apples as specified in the Special Provisions.

Varietal group. Apple varieties with similar characteristics that are grouped for insurance purposes as specified in the Special Provisions.

2. *Unit Division*

(a) In addition to the requirements of section 34(b) of the Basic Provisions, optional units may be established if each optional unit is:

(1) Located on non-contiguous land; or

(2) By varietal group.

3. *Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities*

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election for all the apples in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each apple type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by type, if applicable:

(1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage has changed:

(i) The age and type of the interplanted crop, if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

(c) We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of the following: Interplanted perennial crop; removal of trees; damage; change in practices; and any other circumstance on the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. *Contract Changes*

In accordance with section 4 of the Basic Provisions, the contract change date is October 31 preceding the cancellation date for California and August 31 preceding the cancellation date for all other states.

5. *Cancellation and Termination Dates*

(a) In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31 in California and November 20 in all other states.

(b) If your apple policy is canceled or terminated by us for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year, but on or before the cancellation and termination dates whichever is later, insurance will be considered to have not attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

(c) We may not cancel your policy when an insured cause of loss has occurred after insurance attached, but prior to the cancellation date. However, your policy can be terminated if a cause for termination contained in sections 2 or 27 of the Basic Provisions exists.

6. *Report of Acreage*

In addition to the requirements contained in section 6 of the Basic Provisions, you must report and designate all acreage by type by the acreage reporting date. Blocks of apple acreage grown for processing are not eligible for the Optional Coverage for Fresh Quality Adjustment option contained in section 14 of these Crop Provisions.

7. *Insured Crop*

In accordance with section 8 of the Basic Provisions, the crop insured will be all apples in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown on tree varieties that are adapted to the area and have, in at least one of the previous four years, produced:

(1) 10 bins of apples per acre in Area A; or

(2) 150 bushels of apples per acre in Area B; or

(3) 200 bushels of apples per acre in Area C; and

(c) That are grown in an orchard that, if inspected, is considered acceptable by us.

8. *Insurable Acreage*

In lieu of the provisions in section 9 of the Basic Provisions that prohibit insurance from attaching to a crop planted with another crop, apples interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

9. *Insurance Period*

(a) In accordance with the provisions of section 11 of the Basic Provisions:

(1) For the year of application in California, coverage begins on February 1 of the calendar year the insured crop normally blooms. In all other states, coverage begins November 21 of the calendar year prior to the calendar year the insured crop normally blooms, except that, if your application is received by us after January 12 but prior to February 1 in California, or after November 1 but prior to November 21 in all other states, insurance will attach on the 20th day after your properly completed application is received in our local office, unless we inspect the acreage during the 20-day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the apple acreage.

(2) For each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring an existing policy to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(3) The calendar date for the end of the insurance period for each crop year is November 5, or such other date as specified in the Special Provisions.

(4) Notwithstanding the provisions in this section, coverage will not be considered to have begun for a crop year if the policy is canceled or terminated in accordance with section 5(b).

(b) In addition to the provisions of section 11 of the Basic Provisions:

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period. There will be no coverage of any insurable interest acquired after the acreage reporting date.

(2) If you relinquish your insurable share on any insurable acreage of apples on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

(3) If you relinquish your insurable share on any insurable acreage of apples after the acreage reporting date for the crop year, insurance coverage will be provided for any loss due to an insurable cause of loss that occurred prior to the date that you relinquished your insurable share and the whole premium will be due for such acreage for that crop year.

10. *Causes of Loss*

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period and result in damaged apple production:

(1) Adverse weather conditions;

(2) Fire unless weeds and other forms of undergrowth have not been

controlled or pruning debris has not been removed from the orchard;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Earthquake;

(6) Volcanic eruption;

(7) Failure of irrigation water supply, if caused by an insured peril that occurs during the insurance period;

(8) Wildlife; and

(9) All other natural causes of loss that cannot be prevented, including, but not limited to, hail, wind, excess sun causing sunburn and frost and freeze causing russeting.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to your inability to market the apples for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

11. *Duties in the Event of Damage or Loss*

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) You must notify us at least 3 days prior to the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest, or immediately if damage is discovered during harvest. You must not sell or dispose of the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and include it as production to count.

12. *Settlement of Claim*

(a) We will determine your loss on a unit basis. In the event, you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any unit by:

(1) Multiplying the insured acreage by its respective production guarantee, by type as applicable;

(2) Multiplying each result in section 12(b)(1) by the respective price election;

(3) Totaling the results in section 12(b)(2) if there are more than one type;

(4) Multiplying the total production to count (see section 12(c)), for each type as applicable, by the respective price election;

(5) Totaling the results in section 12(b)(4), if there are more than one type;

(6) Subtracting the total in section 12(b)(5) from the total in section 12(b)(3); and

(7) Multiplying the result in section 12(b)(6) by your share.

(c) The total production to count (in boxes or bushels) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 11;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested apple production that would be marketable if harvested; and

(iv) Potential marketable apple production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested marketable production from the insurable acreage.

Basic Coverage example:

You have 100 percent share and designated 10 acres of fresh apples and 5 acres of processing apples in the unit on the acreage report, with a 600 bushels per acre guarantee for both fresh and processing apples and a price election of $9.10 per bushel for fresh apples and $4.76 per bushel for processing apples. You are only able to harvest 5,000 bushels of fresh apples and 1,000 bushels of processing apples that grade at least U.S. No. 1 Processing. Your indemnity would be calculated as follows:

A. 10 acres × 600 bushels = 6,000 bushels guarantee of fresh apples; 5 acres × 600 bushels = 3,000 bushels guarantee of processing apples;

B. 6,000 bushels × $9.10 price election = $54,600.00 value of guarantee for fresh apples; 3,000 bushels × $4.76 price election = $14,280.00 value of guarantee for processing apples;

C. $54,600.00 value of guarantee for fresh apples + $14,280.00 value of guarantee for processing apples = $68,880.00 total value guarantee;

D. 5,000 bushels of harvested marketable fresh apple production to count × $9.10 price election = $45,500.00 value of production to count for fresh apples; 1,000 bushels of harvested marketable processing apple production to count × $4.76 price election = $4,760.00 value of production to count for processing apples;

E. $45,500.00 value of production to count for fresh apples + $4,760.00 value of production to count for processing apples = $50,260.00 total value of production to count;

F. $68,880.00 total value guarantee − $50,260.00 total value of production to count = $18,620.00 value of loss; and

G. $18,620.00 value of loss × 100 percent share = $18,620.00 indemnity payment.

[End of Example]

(d) The production to count determined in accordance with section 12(c) will be used for APH purposes, regardless of whether there are any adjustments under section 14.

13. *Late and Prevented Planting*

The late and prevented planting provisions of the Basic Provisions are not applicable.

14. *Optional Coverage for Fresh Fruit Quality Adjustment.*

(a) In the event of a conflict between the Apple Crop Insurance Provisions and this option, this option will control.

(b) In return for payment of the additional premium designated in the actuarial documents, this option provides for quality adjustment of fresh apple production as follows:

(1) To be eligible for this option, you must have elected to insure your apples at the additional coverage level. If you elect Catastrophic Risk Protection (CAT) after this option is effective, it will be considered as notice of cancellation of this option by you.

(2) You must elect this option on or before the sales closing date for the initial crop year for which you wish to insure your apples under this option. This option will continue in effect until canceled by either you or us for any succeeding crop year by written notice to the other party on or before the cancellation date.

(3) This option will apply to all your apple acreage designated in your acreage report as grown for fresh apples and that meets the insurability requirements specified in the Apple Crop Insurance Provisions, except any acreage specifically excluded by the actuarial documents. Any acreage designated in your acreage report as grown for processing apples is not eligible for coverage under this option.

(4) In lieu of sections 12(c)(1)(iii) and (iv) and (2), the production to count will include all appraised and harvested production for a unit's fresh apple acreage that grades at least U.S. No. 1 Processing, adjusted in accordance with this option.

(5) If appraised or harvested fresh apple production is damaged to the extent that 20 percent or more of the apples do not grade U.S. Fancy or better the following adjustments will apply:

(i) Fresh apple production to count with 21 percent through 40 percent damaged apple production will be reduced 2 percent for each full percent in excess of 20 percent.

(ii) Fresh apple production to count with 41 percent through 50 percent damaged apple production will be reduced 40 percent plus an additional 3 percent for each full percent in excess of 40 percent.

(iii) Fresh apple production to count with 51 percent through 64 percent damaged apple production will be reduced 70 percent plus an additional 2 percent for each full percent in excess of 50 percent.

(iv) Fresh apple production to count with 65 percent or more damaged apple production will not be considered production to count.

(v) Notwithstanding sections 14(b)(i) through (iv), if you sell any of your fresh apple production as U.S. Fancy, all such sold production will be included as production to count under this option. The following is an example of loss under the Optional Coverage for Fresh Fruit Quality Adjustment:

You have 100 percent share and designated 10 acres of fresh apples and 5 acres of processing apples in the unit on the acreage report, with a 600 bushel per acre guarantee for both fresh and processing apples and a price election of $9.10 per bushel for fresh apples and $4.76 per bushel for processing apples. You harvest 5,000 bushels of apples from your designated fresh acreage that grade U.S. No. 1 Processing or better, but only 2,650 of those bushels grade U.S. Fancy or better. You also harvest from your designated processing acreage 1,000 bushels apples that grade U.S. No. 1 Processing or better. Your indemnity would be calculated as follows:

A. 10 acres × 600 bushels per acre = 6,000 bushels guarantee of fresh apples; 5 acres × 600 bushels per acre = 3,000 bushels guarantee of processing apples;

B. 6,000 bushels guarantee of fresh apples × $9.10 price election = $54,600.00 value of guarantee for fresh apples; acreage; 3,000 bushels guarantee of processing apples × $4.76 price election = $14,280.00 value of guarantee for processing apple acreage;

C. $54,600.00 value of guarantee for fresh apple acreage + $14,280.00 value of guarantee for processing apple acreage = $68,880.00 total value of guarantee for all apple acreage;

D. The value of the fresh apple and processing apple production to count is determined as follows:

i. 5,000 bushels of apples that graded U.S. No. 1 or better − 2,650 bushels that graded U.S. Fancy = 2,350 bushels not grading U.S. Fancy;

ii. 2,350 / 5,000 = 47 percent of fresh apples that did not make U.S. Fancy grade;

iii. In accordance with section 14(b)(5)(ii): 47 percent − 40 percent = 7 percent in excess of 40 percent;

iv. 7 percent × 3 percent = 21 percent;

v. 40 percent + 21 percent = 61 percent;

vi. 5,000 bushels of apples that graded U.S. No. 1 or better × .61 (61 percent) = 3,050 bushels of fresh apple production to count;

vii. 3,050 bushels of fresh apples production to count × $9.10 = $27,755.00 value of the fresh apple production to count; 1,000 bushels of harvested marketable processing apple production to count × $4.76 price election = $4,760.00 value of the processing apple production to count;

E. $27,755.00 value of the fresh apple production to count + $4,760.00 value of the processing apple production to count = $32,515.00 total value of production to count;

F. $68,880.00 total value of guarantee for all apple acreage − $32,515.00 total value of production to count = $36,365.00 value of loss; and

G. $36,365.00 value of loss × 100 percent share = $36,365.00 indemnity payment.

[End of Example]

Signed in Washington, DC, on August 24, 2004.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 04–19596 Filed 8–24–04; 2:35 pm]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1724 and 1726

Correction of Electric Program Standard Contract Forms

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's Rural Development Utilities Programs, is correcting its regulations relating to two RUS forms. RUS Form 211, Engineering Services Contract for the Design and Construction of a Generating Plant, and RUS Form 198, Equipment Contract, are being revised to correct two typographical errors and a numbering error, respectively.

DATES: Effective Date: September 27, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Fred J. Gatchell, Deputy Director, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave., SW., Washington, DC 20250–1569. Telephone: (202) 720–1398. FAX: (202) 720–7491. E-mail: *fred.gatchell@usda.gov.*

SUPPLEMENTARY INFORMATION: RUS has determined that pursuant to 5 U.S.C. 553, a notice of proposed rule making and opportunity for comment is impracticable, unnecessary, or contrary to the public interest and is exempt from the provisions of Executive Order Nos. 12866 and 12988. It has been

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

Background

On June 29, 1998, RUS revised 7 CFR 1724, Electric Engineering, Architectural Services and Design Policies and Procedures, which references RUS Form 211, Engineering Services Contract for the Design and Construction of a Generating Plant (63 FR 35312). A typographical error has been found in Article VI, Section 8 of this form. This rule updates the reference to the corrected form.

On February 13, 2004, RUS revised 7 CFR 1726, Electric System Construction Policies and Procedures, which references RUS Form 198, Equipment Contract (69 FR 7105). A typographical error has been found in Article II, Section 1 of this form. Also, a numbering error has been found in Article VI of this form. This rule updates the reference to the corrected form.

List of Subjects

7 CFR Part 1724

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

7 CFR Part 1726

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

■ For reasons set forth in the preamble, RUS amends 7 CFR parts 1724 and 1726 as follows:

PART 1724—ELECTRIC ENGINEERING, ARCHITECTURAL SERVICES AND DESIGN POLICIES AND PROCEDURES

■ 1. The authority citation for part 1724 continues to read as follows:

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

Subpart F—RUS Contract Forms

■ 2. Amend § 1724.74 by revising paragraph (c)(1) to read as follows:

§ 1724.74 List of electric program standard contract forms.

* * * * *

(c) * * *

(1) RUS Form 211, Rev. 4–04, Engineering Service Contract for the Design and Construction of a Generating Plant. This form is used for engineering services for generating plant construction.

* * * * *

PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

■ 3. The authority citation for part 1726 continues to read as follows:

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

Subpart I—RUS Standard Forms

■ 4. Amend § 1726.304 by revising paragraph (c)(4) to read as follows:

§ 1726.304 List of electric program standard contract forms.

* * * * *

(c) * * *

(4) RUS Form 198, Rev. 4–04, Equipment Contract. This form is used for equipment purchases.

* * * * *

Dated: August 17, 2004.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 04–19584 Filed 8–26–04; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17661; Airspace Docket No. 04–AAL–08]

Establishment of Class E Airspace; Shungnak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Shungnak, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAP) and a new Textual Departure Procedure. This Rule results in new Class E airspace upward from 700 feet (ft.) and 1,200 feet above the surface at Shungnak, AK.

DATES: Effective 0901 UTC, November 25, 2004.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, June 9, 2004, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Shungnak, AK (69 FR 32289). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new Standard Instrument Approach Procedures and a new Textual Departure Procedure for the Shungnak Airport. In addition to the Textual Departure Procedure, the new approaches are Area Navigation-Global Positioning System (RNAV GPS) Runway (RWY) 9, original and (2) RNAV (GPS) Runway 27, original. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be revoked and revised subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Shungnak, Alaska. This additional Class E airspace was created to accomodate aircraft executing two new SIAPs and a textual departure procedure and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Shungnak Airport, Shungnak, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Shungnak, AK [New]

Shungnak Airport, AK
(Lat. 66°53′17″ N., long. 157°09′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Shungnak Airport and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of 66°45′29″ N 156°30′39″ W and within a 30-mile radius of 66°49′54.50″N 156°24′52.38″W, excluding the Ambler, AK Class E airspace.

* * * * *

Issued in Anchorage, AK, on August 18, 2004.

Judith G. Heckl,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 04–19619 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17660; Airspace Docket No. 03–AAL–09]

Revision of Class E Airspace; King Salmon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at King Salmon, AK to provide adequate controlled airspace to contain aircraft executing three new Standard Instrument Approach Procedures (SIAP). This Rule results in newClass E airspace upward from 1,200 feet above the surface at King Salmon, AK.

DATES: Effective 0901 UTC, November 25, 2004.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, June 9, 2004, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 1,200 ft. above the surface at King Salmon, AK (69 FR 32290). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing three new Standard Instrument Approach Procedures for the King Salmon Airport. The new approaches are Area Navigation-Global Positioning System (RNAV GPS) Runway (RWY) 11, original, (2) RNAV (GPS) Y RWY 29, original and (3) RNAV (GPS) Z RWY 29 original. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be revoked and revised subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at King Salmon, Alaska. This additional Class E airspace was created to accommodate aircraft executing three new SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at King Salmon Airport, King Salmon, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective

September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 King Salmon, AK [New]

King Salmon Airport, AK
(Lat. 58°40′36″ N., long. 156°38′57″ W.)
King Salmon VORTAC
(Lat. 58°43′29″ N., long. 156°45′08″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the King Salmon Airport and within 4 miles northeast and 8 miles southwest of the King Salmon VORTAC 312° radial extending from the VORTAC to 21 miles northwest of the VORTAC and within 14 miles of the VORTAC 259° radial clockwise to the 004° radial and that airspace within 3.3 miles either side of the 132° radial of the VORTAC extending from the VORTAC to 17 miles southeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 43-mile radius of the King Salmon Airport excluding the Yukon-Kuskokwim Delta, AK Class E airspace.

* * * * *

Issued in Anchorage, AK, on August 18, 2004.

Judith G. Heckl,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 04–19611 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 4, 10, 12, 18, 19, 101, 122, 123, 141, 162, 163, 171 and 181

[CBP Dec. 04–28]

Technical Corrections to Customs and Border Protection Regulations

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Customs and Border Protection (CBP) periodically reviews its regulations to ensure that they are current, correct and consistent. Through this review process, CBP noted several discrepancies. This document remedies these discrepancies.

DATES: Effective August 27, 2004.

FOR FURTHER INFORMATION CONTACT: Christopher W. Pappas, Regulations Branch, Office of Regulations and Rulings, 202–572–8769.

SUPPLEMENTARY INFORMATION:

Background

It is the policy of Customs and Border Protection (CBP) to periodically review its regulations to ensure that they are as accurate and up-to-date as possible so that the importing and general public are aware of CBP programs, requirements, and procedures regarding import-related activities. As part of this review policy, CBP has determined that certain changes are necessary affecting parts 4, 10, 12, 18, 19, 101, 102, 122, 123, 141, 162, 163, 171 and 181 of the CBP Regulations (19 CFR parts 4, 10, 12, 18, 19, 101, 102, 122, 123, 141, 162, 163, 171 and 181).

Section 4.13 of the CBP Regulations (19 CFR 4.13) is based on 19 U.S.C. 1707, which was repealed by Public Law 104–295 of October 11, 1996. Accordingly, this document removes and reserves § 4.13.

Section 10.33 of the CBP Regulations (19 CFR 10.33) is being amended to correct a reference to the Harmonized Tariff Schedule of the United States (HTSUS) subheading 9813.00.65. This subheading was abolished by Presidential Proclamation 6763, the Uruguay Round of Multilateral Trade Negotiations, and for Other Purposes, of December 23, 1994. The same proclamation added, in Subchapter XVII of Chapter 98, HTSUS, subheading ''9817.00.98 Theatrical scenery, properties and apparel brought into the United States by proprietors or managers of theatrical, ballet, opera or similar productions or exhibitions arriving from abroad for temporary use by them in such productions or exhibitions.'' Accordingly, this document amends the HTSUS subheading in § 10.33 to read subheading 9817.00.98.

The authority for § 12.6, CBP Regulations (19 CFR 12.6) is being corrected. The current authority citation for § 12.6 includes a citation to ''19 U.S.C. 1303'' which has been repealed. Accordingly, this document revises the authority citation for § 12.6 by removing that authority.

Section 12.38, CBP Regulations (19 CFR 12.38) contains an outdated reference to § 171.22(b). Section 171.22(b) was removed by a final rule published in the **Federal Register** (65 FR 53565) on September 5, 2000. Accordingly, this document amends § 12.38 by removing the outdated reference to § 171.22(b).

References to the ''Interstate Commerce Commission'' (ICC) in the heading of § 18.9, CBP Regulations (19 CFR 18.9) and in § 18.9(a) are outdated. The ICC Termination Act of 1995 (Public Law 104–88, 109 Stat. 803), enacted December 29, 1995, and effective January 1, 1996, eliminated the ICC and transferred the functions referenced in § 18.9 to the Surface Transportation Board. Accordingly, this document corrects these references to read the ''Surface Transportation Board.''

There is an incorrect reference in § 19.12 of the CBP Regulations (19 CFR 19.12). Section 19.12(d)(4)(ii) refers to an exception to the requirement that a warehouse proprietor ''file [a] permit folder with Customs ''[in] paragraph (b)(4)(iv) of this section.'' This exception is found in § 19.12(d)(4)(iv), ''Exemption to submission requirement.'' Accordingly, this document amends § 19.12(d)(4)(ii) to reflect the correct reference.

Section 101.3 of the CBP Regulations (19 CFR 101.3) contains a table listing ports of entry by state along with the limits of each port. The limits of several ports were changed in T.D. 35546, T.D. 37386, T.D. 37439, T.D. 22305 and T.D. 39882; however, these changes were not reflected in the CBP Regulations. Accordingly, this document adds references to these Treasury Decisions in the ''Limits of port'' column in § 101.3. In addition, this document corrects the spelling of the Aguadilla port.

Section 101.4(c) of the CBP Regulations (19 CFR 101.4(c)) contains a table listing customs stations along with the supervisory port of entry for each station. The supervisory port of entry for the customs station of Antelope Wells, New Mexico, is no longer Rio Grande City, Texas. The supervisory port of entry for Antelope Wells is now Columbus, New Mexico. Accordingly, this document amends § 101.4(c) to reflect the correct supervisory port of entry.

Section 122.27(b) of the CBP Regulations (19 CFR 122.27(b)) contains a reference to the regulations of the ''Export Administration (15 CFR parts 368 through 399).'' These regulations are currently found at 15 CFR parts 730–774 and are referred to as the Export Administration Regulations. Accordingly, this document amends § 122.27(b) to reflect this name change and new citation.

Similarly, § 122.62(b) and (c) contain two references to the ''Office of Export Administration'' and two references to the ''Export Control Regulations (15 CFR part 370).'' The Office of Export Administration ceased to exist in 1988 when it was reformed as the Bureau of Export Administration. The Department

of Commerce, through an internal organizational order on April 18, 2002, changed the name of the Bureau of Export Administration to the Bureau of Industry and Security (BIS). As discussed above, the Bureau of Industry and Security regulations are currently found at 15 CFR parts 730–774 and are referred to as the Export Administration Regulations. Accordingly, this document amends § 122.62(b) and (c) to reflect these name changes and new citation.

Section 123.1 of the CBP Regulations (19 CFR 123.1) contains a citation to 8 CFR 235.13 as the section relating to the PORTPASS program, a section which no longer exists. The PORTPASS regulations are now at 8 CFR 235.7. This document amends § 123.1(a) accordingly.

Sections 141.4(b)(4) and (d) of the CBP Regulations (19 CFR 141.4(b)(4) and (d)) reference Subchapter V, Chapter 99 of the HTSUS, particularly subheadings 9905.86.05 and 9905.86.10, HTSUS. Subchapter V, Chapter 99, HTSUS, was temporary in nature and only covered goods falling within its provisions through the close of December 31, 1998. Accordingly, this document amends § 141.4(b)(4) by removing the reference to ''Chapter 99, Subchapter V, U.S. Note 9, HTSUS'' and revises § 141.4(d) by removing the references to subheadings 9905.86.05 and 9905.86.10, HTSUS.

The dollar amount in § 162.76(c) of the CBP Regulations (19 CFR 162.76(c)) is changed by this document from $500 to $1000. This change conforms to 19 U.S.C. 1584(b)(1) as amended by section 3118(1) of Public Law 99–570 of October 27, 1986, ''The Anti-Drug Abuse Act of 1986.''

The List of Records Required for an Entry of Merchandise set forth in the Appendix to part 163 of the CBP Regulations (19 CFR part 163) is also corrected by this document. Section IV of the Appendix incorrectly attributes 19 CFR 133.21(b)(6) of the CBP Regulations as the authority for the entry records requirement ''Consent from trademark or trade name holder to import otherwise restricted goods.'' This document removes the incorrect citation and adds the correct citations: 19 CFR 133.21(e), 133.22(c)(3) and 133.23(c).

Sections 171.51(b)(7) and 171.52(a), CBP Regulations (19 CFR 171.51(b)(7) and 171.52(a)) concern expedited petitioning procedures for administrative forfeiture proceedings for property subject to forfeiture under 19 U.S.C. 1595a, 21 U.S.C. 881, and 49 U.S.C. 80303. Sections 171.51(b)(7) and 172.52(a), and the specific authority citation for subpart F, currently set forth references to 19 U.S.C. 1595a, 21 U.S.C. 881, and 49 U.S.C. 80303. Section 888 of title 21 of the U.S. Code (21 U.S.C. 888), the basis for the expedited procedures for conveyances seized under 21 U.S.C. 881 and 49 U.S.C. 80303, was repealed by section 2(c)(3) of the Civil Asset Forfeiture Reform Act of 2000, Public Law 106–185 of April 25, 2000 (CAFRA). Title 19, however, is explicitly exempt from the CAFRA (See section 2(i)(2)(A) of the CAFRA). Accordingly, this document removes the incorrect references.

Finally, the specific authority for subpart D of part 181, CBP Regulations (19 CFR part 181) was inadvertently omitted from part 181. Accordingly, this document adds the specific authority: 19 U.S.C. 1520(d).

Administrative Procedure Act, the Regulatory Flexibility Act and Executive Order 12866

Because these amendments merely conform with existing law or regulation, notice and public procedure are unnecessary. For the same reason, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Nor do these amendments meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Delegations of Authority: Signature of Customs and Border Protection Regulations

This document is limited to technical corrections of CBP Regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b).

Drafting Information

The principal author of this document was Christopher W. Pappas, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 4

Cargo vessels, Customs duties and inspection, Freight, Imports, Inspection, Maritime carriers, Merchandise, Shipping, Vessels.

19 CFR Part 10

Art, Customs duties and inspection, Entry, Imports, Preference programs, Shipments.

19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements.

19 CFR Part 18

Customs duties and inspection, Imports.

19 CFR Part 19

Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Warehouses.

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Imports, Reporting and recordkeeping requirements.

19 CFR Part 122

Administrative practice and procedure, Imports, Reporting and recordkeeping requirements.

19 CFR Part 123

Canada, Customs duties and inspection, Freight, Imports, International boundaries (Land border), International traffic, Vehicles.

19 CFR Part 141

Customs duties and inspection, Entry of merchandise, Release of merchandise.

19 CFR Part 162

Drug traffic control, Law enforcement, Prohibited merchandise.

19 CFR Part 163

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 171

Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 181

Customs duties and inspection, Imports, Reporting and recordkeeping.

Amendments to the Regulations

■ This document amends parts 4, 10, 12, 18, 19, 101, 122, 123, 141, 162, 163, 171 and 181, CBP Regulations (19 CFR part 4, 10, 12, 18, 19, 101, 122, 123, 141, 162, 163, 171 and 181), making technical corrections. These corrections are set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The general authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

* * * * *

■ 2. Section 4.13 of the CBP Regulations is removed and reserved.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 3. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

§ 10.33 [Amended]

■ 4. In § 10.33, the subheading number ''9813.00.65'' is removed from the introductory text and in its place the subheading number ''9817.00.98'' is added.

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 5. The general authority citation for part 12 continues to read and the specific authority citation for § 12.6 is revised as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Section 12.6 also issued under 7 U.S.C. 1854;

* * * * *

§ 12.38 [Amended]

■ 6. Section 12.38 is amended by removing the phrase ''(see 171.22(b) of this chapter)''.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

■ 7. The general authority citation in part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624.

* * * * *

§ 18.9 [Amended]

■ 8. In § 18.9, the section heading and paragraph (a) are revised to read as follows:

§ 18.9 Examination by inspectors of trunk line associations or agents of the Surface Transportation Board.

(a) Upon presentation of proper credentials showing the applicant to be a representative of the Trunk Line Association, the Surface Transportation Board, the Joint Rate Inspection Bureau of Chicago or the Southern Weighing and Inspection Bureau of Atlanta, inspectors of CBP in charge will permit such applicant to examine packages containing in-bond merchandise described in the manifest in general terms for the purpose of ascertaining whether the merchandise is properly classified under the interstate commerce laws.

* * * * *

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

■ 9. The general authority citation for part 19 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624;

* * * * *

§ 19.12 [Amended]

■ 10. The citation in § 19.12(d)(4)(ii) to ''(b)(4)(iv)'' is removed, and the citation ''(d)(4)(iv)'' is added in its place.

PART 101—GENERAL PROVISIONS

■ 11. The general authority citation for part 101 and specific authority citation for §§ 101.3 and 101.4 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

§ 101.3 [Amended]

■ 12. The list of ports in § 101.3(b)(1) is amended by:

■ a. Under the listing for ''California'' adjacent to ''Port San Luis'' in the ''Ports of entry'' column, adding ''T.D. 35546'' in the ''Limits of port'' column;

■ b. Under the listing for ''North Dakota'', adjacent to ''Northgate'' in the ''Ports of entry'' column, adding ''T.D. 37386, T.D. 37439'' in the ''Limits of port'' column;

■ c. Under the listing for ''Puerto Rico'', removing the word ''Aquadilla'' in the ''Ports of entry'' column, and adding in its place ''Aguadilla'' and by adding ''T.D. 22305'' in the ''Limits of port'' column adjacent to that entry; and

■ d. Adding ''T.D. 39882'' under ''Washington'' in the ''Limits of port'' column adjacent to ''Nighthawk''.

■ 13. In the list of customs stations and supervisory ports of entry in § 101.4(c), under the state of New Mexico, the ''Supervisory port of entry'' column adjacent to ''Antelope Wells (Mail: Hachita, NM)'' in the ''Customs station'' column is amended by removing ''Rio Grande City, TX'' and by adding in its place ''Columbus, NM''.

PART 122—AIR COMMERCE REGULATIONS

■ 14. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

* * * * *

§ 122.27 [Amended]

■ 15. In § 122.27(b)(2), the words ''Export Administration (15 CFR parts 368 through 399) regulations'' are removed and in their place the words ''Export Administration Regulations (15 CFR parts 730 through 774)'' are added.

§ 122.62 [Amended]

■ 16. In § 122.62:

■ a. In paragraph (b), the heading and first sentence are amended by removing the words ''Office of Export Administration'' and adding in their place the words ''Bureau of Industry and Security'';

■ b. In paragraph (b), the first sentence is further amended by removing the words ''Export Control Regulations (15 CFR part 370)'' and adding in their place the words ''Export Administration Regulations (15 CFR parts 730 through 774)''; and

■ c. In paragraph (c), the first sentence is amended by removing the words ''Export Control Regulations'' and adding in their place the words ''Export Administration Regulations.''

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

■ 17. The general authority citation for part 123 and the specific authority citation for § 123.1 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624.

Section 123.1 also issued under 19 U.S.C. 1459;

* * * * *

§ 123.1 [Amended]

■ 18. The citation in § 123.1(a) to ''8 CFR 235.13'' is removed, and the citation ''8 CFR 235.7'' is added in its place.

PART 141—ENTRY OF MERCHANDISE

■ 19. The general authority citation for part 141 and the specific authority citation for § 141.4 continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Section 141.4 also issued under 19 U.S.C. 1202 (General Note 19; Chapter 86, Additional U.S. Note 1; Chapter 89, Additional U.S. Note 1; Chapter 98, Subchapter III, U.S. Notes 3 and 4; Harmonized Tariff Schedule of the United States), 1498;

* * * * *

§ 141.4 [Amended]

■ 20. In § 141.4, paragraph (b)(4) is amended by removing the words ''Chapter 99, Subchapter V, U.S. Note 9, HTSUS;'' and paragraph (d) is revised. The revision reads as follows:

§ 141.4 Entry required.

* * * * *

(d) *Railway locomotives and freight cars.* For railway locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, to be excepted and released in accordance with paragraph (b)(4) of this section, the importer must first file a bond on CBP Form 301, containing the bond conditions set forth in either § 113.62 or 113.64 of this chapter.

* * * * *

PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 21. The general authority citation for part 162 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

§ 162.76 [Amended]

■ 22. In § 162.76(c), the dollar amount ''$500'' is removed, and the dollar amount ''$1,000'' is added in its place.

PART 163—RECORDKEEPING

■ 23. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

Appendix to Part 163—[Amended]

■ 24. The Appendix to part 163 is amended by removing from listing IV the citation ''§ 133.21(b)(6)'' just prior to the words ''Consent from trademark or trade name holder to import otherwise restricted goods'' and by adding in its place, ''§§ 133.21(e), 133.22(c)(3) and 133.23(e)''.

PART 171—FINES, PENALTIES, AND FORFEITURES

■ 25. The general authority citation for part 171 continues to read and the specific authority citation for subpart F is revised to read as follows:

Authority: 18 U.S.C. 983; 19 U.S.C. 66, 1592, 1593a, 1618, 1624; 22 U.S.C. 401; 31 U.S.C. 5321; 46 U.S.C. App. 320.

Subpart F also issued under 19 U.S.C. 1595a, 1605, 1614.

§ 171.51 [Amended]

■ 26. In § 171.51(b)(7), the citations ''21 U.S.C. 881(a)(4), (6), and (7);'' and '',and 49 U.S.C. 80303'' are removed.

§ 171.52 [Amended]

■ 27. In § 171.52(a), the citations ''21 U.S.C. 881(a)(4), (6) or (7),'' and ''and/or 49 U.S.C. 80303'' are removed.

PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

■ 28. The general authority for part 181 continues to read and a new specific authority for subpart D of part 181 is added to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 3314.

Subpart D of part 181 also issued under 19 U.S.C. 1520(d).

Dated: August 23, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04–19577 Filed 8–26–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0287]

21 CFR Part 5

Change of Names and Addresses; Technical Amendment; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended its regulations to reflect name and address changes for the Office of Compliance, Center for Drug Evaluation and Research (CDER). The document was published in the **Federal Register** of August 11, 2004 (69 FR 48774), with incorrect information regarding the mail codes for the Office of Compliance, CDER. This action is editorial in nature and is intended to provide accuracy and clarity to the agency's regulations.

DATES: This rule is effective August 11, 2004.

FOR FURTHER INFORMATION CONTACT: Joyce A Strong, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: FDA is correcting a document that amended its regulations in 21 CFR part 5 to correct certain mail codes in the Office of Compliance, CDER.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—ORGANIZATION

■ 1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 552; 21 U.S.C. 301–397.

■ 2. Section 5.1100 is amended under the heading ''CENTER FOR DRUG EVALUATION AND RESEARCH.[1]'' by revising the entries under the subheading ''*Office of Compliance.*[1]'' to read as follows:

§5.1100 Headquarters.

* * * * *

CENTER FOR DRUG EVALUATION AND RESEARCH.[1]

* * * * *

Office of Compliance.[1]

Division of New Drugs and Labeling Compliance (HFD–310).

Division of Manufacturing and Product Quality (HFD–320).

Division of Compliance Risk Management and Surveillance (HFD–330).

* * * * *

Dated: August 20, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–19598 Filed 8–26–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–04–019]

RIN 1625–AA87 (Formerly 1625–AA00)

Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations for the security of Department of Defense assets and military cargo in Puget Sound, Washington. This rule, when enforced by the Captain of the Port Puget Sound, would provide for the regulation of vessel traffic in the vicinity of military cargo loading facilities in the navigable waters of the United States.

DATES: This rule is effective August 27, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD13–04–019 and are available for inspection or copying at Commanding Officer, Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTjg T. Thayer, c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217–6232. For specific information concerning enforcement of this rule, call Marine Safety Office Puget Sound at (206) 217–6200 or (800) 688–6664.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 14, 2004, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zones; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA'' in the **Federal Register** (69 FR 26783). No written comments were received by the Coast Guard regarding this proposed rule. However, the Coast Guard received several telephone calls, which indicated that two of the latitude/longitude positions were transposed in the NPRM. These callers were correct and the positions have been corrected in this final rule. A public hearing was not requested and none was held.

The Coast Guard finds good cause exists to make this rule effective less than 30 days after publication. This rule establishes security zones during military cargo loading and unloading operations. The Captain of the Port Puget Sound deems it necessary to make this rule effective upon publication in the **Federal Register** given the unpredictable schedule of these military cargo loading and unloading operations and because of the vital importance of these operations to national security. Moreover, the Captain of the Port Puget Sound will only enforce this rule after issuing a notice of enforcement.

Background and Purpose

Hostile entities continue to operate with the intent to harm U.S. National Security by attacking or sabotaging national security assets. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks. ((67 FR 58317, Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks); (67 FR 59447, Sept. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism); (68 FR 55189, Sept. 22, 2003) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)).

The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et. seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215, Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations). Moreover, the ongoing hostilities in Afghanistan and Iraq make it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the Al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. The Coast Guard, through this rule, intends to assist the Department of Defense to protect vital national security assets, in waters of Puget Sound. This rule establishes security zones and notification requirements that will exclude persons and vessels from these zones during military cargo loading and unloading operations. Entry into these zones will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

Since January 29 of this year, the Captain of the Port has issued four temporary final rules establishing security zones in Commencement Bay, Washington. These temporary final rules have been established to protect facilities used by vessels to load and/or unload military cargo. Moreover, these temporary zones have differed in size and description. This rule would establish a permanent, uniform, security zone, which would control vessel movement in and around the Blair and Sitcum Waterways, Commencement Bay, WA. However, the Captain of the Port will only enforce this rule after issuing a notice of enforcement. Upon notice of suspension of enforcement, all persons and vessels are authorized to enter, move within and exit these security zones. This rule is deemed necessary to protect vital national security assets and military cargo.

Discussion of Comments and Changes

No comments were received by the Coast Guard as a result of the request for comments in our NPRM. However, we did receive several telephone calls regarding the latitude and longitude positions of the proposed zone. These callers identified two points (the point for the approximate location of the private buoy and the northwestern corner of Pier No. 5) that had been transposed in paragraphs (c)(1) and (c)(2) of our proposed rule. These points have been corrected to accurately reflect the location of these two security zones.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this rule would restrict access to the regulated area, the effect of this rule would not be significant. This expectation is based on the fact that the regulated area established by the rule would encompass a limited area in the Blair and Sitcum Waterways, Commencement Bay, WA. In addition, temporary final rules established for past cargo loading and unloading operations have only lasted from a few days to over a week in duration. Hence, the Coast Guard expects that enforcement of this rule will be of similar duration. Further, Coast Guard forces will actively monitor and enforce the Blair Waterway and Sitcum Waterway security zones and are authorized by the Captain of the Port to grant authorization to vessels to enter these waterways. In addition, in certain circumstances VTS may grant authorization to enter, move within or depart these waterways. In other words,

those vessels or persons who may be impacted by this rule may request permission to enter, move within or depart these security zones. Finally, the Coast Guard will cause a notice of suspension of enforcement to be published when cargo loading or unloading operations have concluded. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

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 would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of Blair and/or Sitcum Waterways.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual security zones are limited in size; (ii) designated representatives of the Captain of the Port may authorize access to the security zone; (iii) security zones for any given operation will affect a given geographical location for a limited time; (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly and (v) the Coast Guard will cause a notice of suspension of enforcement to be published when cargo loading or unloading operations have concluded.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 contact one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT.**

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. We have determined that these security zones and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this rule or options for compliance are encourage to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT.**

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

The Coast Guard's preliminary review indicates this rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D. The environmental analysis and Categorical Exclusion Determination will be

prepared and be available in the docket for inspection and copying where indicated under **ADDRESSES.** All standard environmental measures remain in effect.

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. 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. 0170.1.

■ 2. Add § 165.1321 to read as follows:

§ 165.1321 Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA.

(a) *Notice of enforcement or suspension of enforcement.* The Captain of the Port Puget Sound will enforce the security zones established by this section only upon notice. Captain of the Port Puget Sound will cause notice of the enforcement of these security zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Puget Sound will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of these security zones is suspended.

(b) *Definitions.* The following definitions apply to this section:

Designated Representative means those persons designated by the Captain of the Port to monitor these security zones, permit entry into these zones, give legally enforceable orders to persons or vessels with in these zones and take other actions authorized by the Captain of the Port. Persons authorized in paragraph (g) to enforce this section and Vessel Traffic Service Puget Sound (VTS) are Designated Representatives.

Federal Law Enforcement Officer means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

Navigable waters of the United States means those waters defined as such in 33 CFR Part 2.

Public vessel means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Washington Law Enforcement Officer means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(c) *Security zone.* The following areas are security zones:

(1) *Blair Waterway Security Zone:* The Security Zone in the Blair Waterway, Commencement Bay, WA, includes all waters enclosed by a line connecting the following points: 47°16′57″ N, 122°24′39″ W, which is approximately the beginning of Pier No. 23 (also known as the Army pier); then northwesterly to 47°17′05″ N, 122°24′52″ W, which is the end of the Pier No. 23 (Army pier); then southwesterly to 47°16′42″ N, 122°25′18″ W, which is the approximate location of a private buoy on the end of the sewage outfall; then southeasterly to 47°16′33″ N, 122°25′04″ W, which is approximately the northwestern end of Pier No. 5; then northeasterly to the northwestern end of Pier No. 1; then southeasterly along the shoreline of the Blair Waterway to the Blair Waterway turning basin; then along the shoreline around the Blair Waterway turning basin; then northwesterly along the shoreline of the Blair Waterway to the Commencement Bay Directional Light (light list number 17159); then northeasterly along the shoreline to the point of origin. [Datum: NAD 1983].

(2) *Sitcum Waterway Security Zone:* The Security Zone in the Sitcum Waterway, Commencement Bay, WA, includes all waters enclosed by a line connecting the following points: 47°16′33″ N, 122°25′04″ W, which is approximately the northwestern end of Pier No. 5; then northwesterly to 47°16′42″ N, 122°25′18″ W, which is the approximate location of a private buoy on the end of the sewage outfall; then southwesterly to 47°16′23″ N, 122°25′36″ W; then southeasterly to 47°16′10″ N, 122°25′27″ W, which is the northwestern corner of Pier No. 2; then extending northeasterly to 47°16′13″ N, 122°25′13″ W; then extending southeasterly along the shoreline of the Sitcum Waterway; then northeasterly along the shoreline at the terminus of the Sitcum Waterway and then northwesterly along the shoreline of the Sitcum Waterway; then northeasterly along the shoreline of Pier No. 5 to the point of origin. [Datum: NAD 1983].

(d) *Obtaining permission to enter, move within, or exit the security zones.* All vessels must obtain permission from the COTP or a Designated Representative to enter, move within, or exit the security zones established in this section when these security zones are enforced. Vessels 20 meters or greater in length should seek permission from the COTP or a Designated Representative at least 4 hours in advance. Vessels less than 20 meters in length should seek permission at least 1 hour in advance. VTS Puget Sound may be reached on VHF channel 14.

(e) *Compliance.* Upon notice of enforcement by the Captain of the Port Puget Sound, the Coast Guard will enforce these security zones in accordance with rules set out in this section. Upon notice of suspension of enforcement by the Captain of the Port Puget Sound, all persons and vessels are authorized to enter, transit, and exit these security zones.

(f) *Regulations.* Under the general regulations in 33 CFR part 165 subpart D, this section applies to any vessel or person in the navigable waters of the United States to which this section applies. No person or vessel may enter the security zones established in this section unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted permission to enter the security zone shall obey all lawful orders or directions of the Captain of the Port or his designated representatives. All vessels shall operate at the minimum speed necessary to maintain a safe course.

(g) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to provide effective enforcement of this section, any Federal Law Enforcement Officer or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section pursuant to 33 CFR 6.04–11.

(h) *Exemption.* Public vessels as defined in paragraph (b) of this section are exempt from the requirements in this section.

(i) *Waiver.* For any vessel, the Captain of the Port Puget Sound may waive any

of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: August 6, 2004.

Danny Ellis,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 04–19566 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 41

[Docket No. 2003–C–027]

RIN 0651–AB70

Revision of Patent Fees for Fiscal Year 2005

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (referred to as ''we'', ''us'', or ''our'' in this notice) is adjusting certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI). Also, we are adjusting, by a corresponding amount, a few patent fees that track the affected fees. The Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business.

DATE: Effective October 1, 2004.

FOR FURTHER INFORMATION CONTACT: Tamara McClure by e-mail at *Tamara.McClure@uspto.gov*, by telephone at (703) 308–5075, or by fax at (703) 308–5077.

SUPPLEMENTARY INFORMATION: This final rule adjusts our fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act, Fiscal Year 2000 (which incorporated the Intellectual Property and Communications Omnibus Reform Act of 1999) (Pub. L. 106–113). This final rule also adjusts, by a corresponding amount, a few patent fees(37 CFR 1.17(e), (r), (s), and (t)) that track statutory fees (either 37 CFR 1.16(a) or 1.17(m)).

A proposed rule notice was published at 69 FR 25861 on May 10, 2004, which requested comments by June 9, 2004. No comments were received.

Legislation has been proposed and passed by the House of Representatives that would alter our fee amounts and procedures. The United States Patent and Trademark Fee Modernization Act of 2004 (H.R. 1561) passed the House of Representatives on March 3, 2004. Similar legislation is pending in the Senate as S. 1760. Customers should be aware that legislative changes to our fees would supersede certain patent fees in this final rule. If such legislative changes occur, we will need to make corresponding changes to the rules of practice to conform them to the fees as set forth in such legislation. Customers may wish to refer to our official Web site at *http://www.uspto.gov* for the most current fee amounts.

In addition, certain rules on fees associated with practices of the Board of Patent Appeals and Interferences are being consolidated in a new part 41 of 37 CFR. These changes were made in accordance with applicable provisions set forth in the final rule notice *Rules of Practice Before the Board of Patent Appeals and Interferences* published at 69 FR 49960 on August 12, 2004.

Background

Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41, 119, 120, 132(b) and 376. For fees paid under 35 U.S.C. 41(a) and (b) and 132(b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

Section 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the CPI over the previous twelve months.

Section 41(d) of title 35, United States Code, authorizes the Director to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for each photocopy, for each black and white copy of a patent, and for standard library service.

Section 41(g) of title 35, United States Code, provides that new fee amounts established by the Director under section 41 may take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office*.

Fee Adjustment Level

The patent statutory fees established by 35 U.S.C. 41(a) and (b) will be adjusted on October 1, 2004, to reflect fluctuations occurring during the twelve-month period from October 1, 2003, through September 30, 2004, in the Consumer Price Index for All Urban Consumers (CPI–U). The Office of Management and Budget has advised us that in calculating these fluctuations, we should use CPI–U data as determined by the Secretary of Labor. In accordance with previous fee-setting methodology, we base this fee adjustment on the Administration's projected CPI–U for the twelve-month period ending September 30, 2004, which is 3.01 percent. Based on this projected CPI–U, patent statutory fees will be adjusted by 3.01 percent.

Certain patent processing fees established under 35 U.S.C. 41(d), 119, 120, 132(b), 376, and Pub. L. 103–465 (the Uruguay Round Agreements Act) will be adjusted to reflect fluctuations in the CPI.

The fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded will be convenient to the user. Fees for other than a small entity of $100 or more were rounded to the nearest $10. Fees of less than $100 were rounded to an even number so that any comparable small entity fee will be a whole number.

General Procedures

Any fee amount that is paid on or after the effective date of the fee adjustment will be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission, where such a certificate is authorized under 37 CFR 1.8. Use of a Certificate of Mailing or Transmission is not authorized for items that are specifically excluded from the provisions of § 1.8. Items for which a Certificate of Mailing or Transmission under § 1.8 are not authorized include, for example, filing of Continued Prosecution Applications (CPAs) under § 1.53(d) and other national and international applications for patents. *See* 37 CFR 1.8(a)(2).

Patent-related correspondence delivered by the ''Express Mail Post Office to Addressee'' service of the United States Postal Service (USPS) is considered filed or received in our office on the date of deposit with the USPS. *See* 37 CFR 1.10(a)(1). The date of deposit with the USPS is shown by the ''date-in'' on the ''Express Mail'' mailing label or other official USPS notation.

To ensure clarity in the implementation of the new fees, a discussion of specific sections is set forth below.

Discussion of Specific Rules

37 CFR 1.16 National Application Filing Fees

Section 1.16, paragraphs (a), (b), (d), and (f) through (i), are revised to adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.17 Patent Application and Reexamination Processing Fees

Section 1.17, paragraphs (a)(2) through (a)(5), (e), (m), and (r) through (t), are revised to adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.18 Patent Post Allowance (Including Issue) Fees

Section 1.18, paragraphs (a) through (c), are revised to adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.20 Post Issuance Fees

Section 1.20, paragraphs (e) through (g), are revised to adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.492 National Stage Fees

Section 1.492, paragraphs (a)(1) through (a)(3), (a)(5), (b) and (d), are revised to adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 41.20 Fees

Section 41.20, paragraphs (b)(1) through (b)(3), are revised to adjust fees established therein to reflect fluctuations in the CPI.

Other Considerations

This final rule contains no information collection requirements within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

The Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy, Small Business Administration, that the final rule change will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The final rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h)(1), which provides small entities with a fifty-percent reduction in the major patent fees.

By statute, the USPTO's Director is expressly authorized to adjust fees annually to reflect fluctuations in the CPI. *See* 35 U.S.C. 41(f) (certain fees ''may be adjusted by the Director on October 1, 1992, and every year thereafter, to reflect any fluctuations occurring during the previous 12 months in the Consumer Price Index, as determined by the Secretary of Labor'').

The final rule increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). The fee increases would range from a minimum of $2 to a maximum of $100 under the final rule.

Under 35 U.S.C. 41(h)(1) small entities are accorded a fifty-percent reduction in most patent fees. Consequently, the small entity fee increases range from a minimum of $1 to a maximum of $50 under the final rule. The sole exception under this final rule is the fee set forth under 37 CFR 1.17(t), which does not qualify for a small entity fee reduction. The fee increase for 37 CFR 1.17(t) is $40.

Accordingly, the final rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Biologies, Courts, Freedom of Information, Invention and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

■ For the reasons set forth in the preamble, we are amending title 37 of the Code of Federal Regulations, parts 1 and 41 as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2, unless otherwise noted.

■ 2. Section 1.16 is amended by revising paragraphs (a), (b), (d) and (f) through (i) to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design, or plant applications:

By a small entity (§ 1.27(a)): $395.00
By other than a small entity: $790.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a)): $44.00
By other than a small entity: $88.00

* * * * *

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a)): $150.00
By other than a small entity : $300.00

* * * * *

(f) Basic fee for filing each design application:

By a small entity (§ 1.27 (a)): $175.00
By other than a small entity: $350.00

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§ 1.27(a)): $275.00
By other than a small entity: $550.00

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.27(a)): $395.00
By other than a small entity: $790.00

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:

By a small entity (§ 1.27(a)): $44.00
By other than a small entity: $88.00

* * * * *

■ 3. Section 1.17 is amended by revising paragraphs (a)(2) through(a)(5), (e), (m), and (r) through (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

(a) * * *

(2) For reply within second month:

By a small entity (§ 1.27(a)): $215.00
By other than a small entity: $430.00

(3) For reply within third month:

By a small entity (§ 1.27(a)): $490.00
By other than a small entity: $980.00

(4) For reply within fourth month:

By a small entity (§ 1.27(a)): $765.00
By other than a small entity: $1,530.00

(5) For reply within fifth month:

By a small entity (§ 1.27(a)): $1,040.00
By other than a small entity: $2,080.00

* * * * *

(e) To request continued examination pursuant to § 1.114:

By a small entity (§ 1.27(a)): $395.00
By other than a small entity: $790.00

* * * * *

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a)): $685.00
By other than a small entity: $1,370.00

* * * * *

(r) For entry of a submission after final rejection under § 1.129(a):

By a small entity (§ 1.27(a)): $395.00
By other than a small entity: $790.00

(s) For each additional invention requested to be examined under § 1.129(b):

By a small entity (§ 1.27(a)): $395.00
By other than a small entity: $790.00

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c):

(§§ 1.55 and 1.78): $1,370.00

■ 4. Section 1.18 is amended by revising paragraphs (a) through (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

By a small entity (§ 1.27(a)): $685.00
By other than a small entity: $1,370.00

(b) Issue fee for issuing a design patent:

By a small entity (§ 1.27(a)): $245.00
By other than a small entity: $490.00

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.27(a)): $330.00
By other than a small entity: $660.00

* * * * *

■ 5. Section 1.20 is amended by revising paragraphs (e) through (g) to read as follows:

§ 1.20 Post issuance fees.

* * * * *

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:

By a small entity (§ 1.27(a)): $470.00
By other than a small: $940.00

(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grant:

By a small entity (§ 1.27(a)): $1,075.00
By other than a small entity: $2,150.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:

By a small entity (§ 1.27(a)): $1,660.00
By other than a small entity: $3,320.00

* * * * *

■ 6. Section 1.492 is amended by revising paragraphs (a)(1) through (a)(3), (a)(5), (b) and (d) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) * * *

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a)): $375.00
By other than a small entity: $750.00

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.27(a)): $395.00
By other than a small entity: $790.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a)): $555.00
By other than a small entity: $1,110.00

* * * * *

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japan Patent Office:

By a small entity (§ 1.27(a)): $475.00
By other than a small entity: $950.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a)): $44.00
By other than a small entity: $88.00

* * * * *

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a)): $150.00
By other than a small entity: $300.00

* * * * *

PART 41—PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

■ 1. The authority citation for 37 CFR part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135, unless otherwise noted.

■ 2. Section 41.20 is amended by revising paragraphs (b)(1) through (b)(3) to read as follows:

§ 41.20 Fees.

* * * * *

(b) *Appeal Fees.*

(1) For filing a notice of appeal from the examiner to the Board:

By a small entity (§ 1.27(a) of this title): $170.00
By other than a small entity: $340.00

(2) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

By a small entity (§ 1.27(a) of this title): $170.00
By other than a small entity: $340.00

(3) For filing a request for an oral hearing before the Board in an appeal under 35 U.S.C. 134:

By a small entity (§ 1.27(a) of this title): $170.00
By other than a small entity: $340.00

Dated: August 23, 2004.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 04–19562 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–16–P

POSTAL SERVICE

39 CFR Part 912

Procedures To Adjudicate Claims for Personal Injury or Property Damage Arising Out of the Operation of the U.S. Postal Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends the Postal Service's regulations concerning tort claims to correct mailing addresses and to clarify ambiguous provisions.

DATES: Effective August 27, 2004.

FOR FURTHER INFORMATION CONTACT: Frank M. Bartholf, Managing Counsel, General Law Service Center, P.O. Box 66640, St. Louis, MO 63166–6640; telephone (314) 872–5120.

SUPPLEMENTARY INFORMATION: Amendment of part 912 is necessary to reflect organizational changes that have occurred in the Postal Service since the

last amendment of this part in 1984 (49 FR 19478), and to clarify ambiguous provisions. This rule is a change in agency rules of procedure that does not substantially affect any rights or obligations of private parties. Therefore, it is appropriate for its adoption by the Postal Service to become effective immediately.

List of Subjects in 39 CFR Part 912

Administrative practice and procedure; Claims.

■ For the reasons set forth above, the Postal Service amends 39 CFR part 912 as follows:

PART 912—[AMENDED]

■ 1. The authority citation for part 912 continues to read as follows:

Authority: 28 U.S.C. 2671–2680; 28 CFR 14.1 through 14.11; 39 U.S.C. 409.

§ 912.2 [Amended]

■ 2. In § 912.2(b), remove ''or his designee'' and add ''or the General Counsel's designee'' in its place.

■ 3. Revise § 912.4 to read as follows:

§ 912.4 Place of filing.

Claims should be filed with the Tort Claims Coordinator for the Postal Service District Office where the accident occurred, but may be filed at any office of the Postal Service, or sent directly to the Chief Counsel, National Tort Center, U.S. Postal Service, P.O. Box 66640, St. Louis, MO 63166–6640.

■ 4. Amend § 912.5 by revising the last sentence of paragraph (a), and paragraph (b) to read as follows:

§ 912.5 Administrative claim; when presented.

(a) * * * A standard Form 95 may be obtained from the local District Tort Claims Coordinator, the National Tort Center, or online at usa.gov (select Government forms).

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to:

(1) The claimant's exercise of the option to file a civil action pursuant to 28 U.S.C. 2675(a);

(2) The Postal Service's issuance of a payment in the full amount of the claim; or

(3) The Postal Service's issuance of a written denial of the claim in accordance with § 912.9.

§ 912.9 [Amended]

■ 5. Amend § 912.9 as follows:

■ (a) Amend paragraph (b) by removing the phrase ''Assistant General Counsel, Claims Division, U.S. Postal Service, Washington, DC 20260'' and adding ''Chief Counsel, National Tort Center, U.S. Postal Service, P.O. Box 66640, St. Louis, MO 63166–6640'' in its place.

■ (b) Amend paragraph (c) by removing the phrase ''Assistant General Counsel, Claims Division, U.S. Postal Service, Washington, DC 20260–1111'' and adding ''Chief Counsel, National Tort Center, U.S. Postal Service, P.O. Box 66640, St. Louis, MO 63166–6640'' in its place.

§ 912.10 [Amended]

■ 6. In § 912.10, remove the phrase ''or his designee'' and add ''or the General Counsel's designee'' in its place.

§ 912.12 [Amended]

■ 7. In § 912.12, remove ''$2,500'' and add ''$5,000'' in its place.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 04–19195 Filed 8–26–04; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF THE INTERIOR

48 CFR Part 1437

RIN 1084–AA00

Woody Biomass Utilization

AGENCY: Assistant Secretary—Policy, Management and Budget, Interior.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of the Interior is including an option to allow service contractors to remove woody biomass generated as a result of land management service contracts wherever ecologically appropriate and in accordance with the law. A new provision added to the Department's acquisition regulations specifies a contract clause to be used for this purpose. This rule does not make any other changes.

DATES: This rule is efffective August 27, 2004. We must receive all comments on this rule by October 26, 2004.

ADDRESSES: You may submit comments, identified by the number 1084–AA00 by any of the following methods:

—Federal rulemaking portal: *http://www.regulations.gov* Follow the instruction for submitting comments

—E-mail: *John_Stewart@ios.doi.gov* Include the number 1084–AA00 in the subject line of the message

—Fax: (202) 606–3150

—Mail: Office of Wildland Fire Coordination, Department of the Interior, MS–3060 1849 C Street NW., Washington, DC 20240

—Hand delivery: Office of Wildland Fire Coordination, MS–3060, Department of the Interior, 1849 C Street NW., Washington, DC 20240

FOR FURTHER INFORMATION CONTACT: Wiley Horsley, Office of Acquisition and Property Management, Department of the Interior at (202) 208–3347, or e-mail at *Wiley_Horsley@ios.doi.gov*. Individuals who use telecommunications devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: This action establishes consistent and efficient procedures to allow contractors the option to remove woody biomass by-products from Department of the Interior land management activities. This option, where ecologically appropriate, will provide economic and social benefits by creating jobs and conserving natural resources. Removal or use of woody biomass will reduce smoke and emissions from prescribed and natural fires; preserve landfill capacities; reduce the threat of catastrophic wildfires to communities and public/private utilities; improve watershed and wildlife habitat protection; and improve forest, woodland, and rangeland health. The Forest Service, U.S. Department of Agriculture, has in place provisions in timber sale, service and stewardship contracts that provide opportunities to utilize the type of materials included in this rule.

Because this revision to existing regulations is necessary to enable immediate use of forest product biomass for beneficial purposes, we are publishing this revision as an interim final rule. In accordance with the ''good cause'' exemption found at the 5 U.S.C. 553(b)(B), we have determined that publishing a proposed rule would be impracticable because the extra time necessary to publish a proposed rule would delay the many benefits accruing from biomass utilization. Moreover, this rule provides a benefit rather than imposing a burden or penalty of any kind upon applicable persons. Immediate implementation of this rule is necessary to treat hazardous fuels and forest health by-products in a timely and cost-efficient manner and thereby reduce the threat of catastrophic wildfire and forest health threats, such as, insects, disease, and invasive plant and animal species. For the same reasons, pursuant to 5 U.S.C. 553(d), it is determined that there is good cause for this interim final rule to become effective immediately upon publication.

All comments received on or before the comment closing date will be considered before taking final action on this rulemaking. The provisions of this interim rule may be changed in light of comments received.

1. Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The contractors and the general public are not required to perform services or process materials; woody products will be removed and compensated, if appropriate, at fair market value as agreed upon.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This policy only applies to Department of the Interior Bureaus; other agencies and governments could positively benefit from the development of small-wood markets and any tax or economic rewards.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The contractor will be provided a new option, if executed, which is exclusive of other rights and benefits.

(4) This rule does not raise novel legal or policy issues. This policy uses existing authorities within existing policies.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The scope of the action is minor (less than $100 million in economic impact); the benefits of the rule are to the contractor and may be exercised at their discretion.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. The woody by-products have limited economic value (small diameter, low value trees and woody material), are unused or underutilized in current market conditions, and/or are by nature, incidental by-products.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The quantities are small in size and amount, are widely scattered across the nation, and are low-value products.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The policy would increase U.S-based economic opportunities, employment, innovation, and conservation of energy and resources.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. No rights, property or compensation has been, or will be taken. A takings implication assessment is not required.

6. Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The rule grants optional rights and increased economic opportunities to individuals, States, local governments, and Tribes, in furtherance of Section 2(h) of E.O. 13132. A Federalism Assessment is not required.

7. Civil Justice Reform (E.O. 12988)

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

8. Consultation With Indian tribes (E.O. 13175)

In accordance with Executive Order 13175, we have evaluated this rule and determined that it has no potential negative effects on federally recognized Indian tribes. We will fully consider tribal views in the final rule. We have consulted with the appropriate bureaus and offices of the Department about the potential effects of this rule on Indian tribes, including the Bureau of Indian Affairs.

9. Paperwork Reduction Act

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

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. Federal agencies should consider the environmental effects of woody biomass utilization in each project where woody biomass utilization is appropriate and make a determination of significance for that project.

11. Public Comment Solicitation

If you wish to comment on this interim rule, you may submit your comments by any one of several methods.

(1) You may mail comments to Office of Wildland Fire Coordination, Department of the Interior, MS–3060 1849 C Street NW., Washington, DC 20240.

(2) You may submit comments electronically by visiting the *regulations.gov* web site and submitting comments under the entry for this regulation.

(3) You may comment via the Internet to *John_Stewart@ios.doi.gov*. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: 1084–AA00'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at John Stewart, Office of Wildland Fire Coordination, Department of the Interior at (202) 606–0504, or Robert Heaton, Bureau of Land Management at (503) 808–6216.

(4) You may hand-deliver comments to Office of Wildland Fire Coordination, MS–3060, Department of the Interior, 1849 C Street NW., Washington, DC 20240.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from

the rulemaking record. We will honor the request to the extent allowable by law.

There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subjects in 48 CFR Part 1437

Forests and forest products, Government procurement.

Dated: August 17, 2004.

P. Lynn Scarlett,

Assistant Secretary—Policy, Management and Budget.

■ For the reasons set forth in the preamble, the Department of the Interior adds a new part 1437 to 48 CFR chapter 14, subchapter F, reading as follows:

PART 1437—UTILIZATION OF WOODY BIOMASS

Sec.
1437.100 General.
1437.101 When can woody biomass be removed?
1437.102 When is the biomass clause required?
1437.103 Format of woody biomass utilization clause.
1437.104 Definitions.

Authority: 30 U.S.C. 601–604, 611, as amended; 16 U.S.C. 668dd; 16 U.S.C. 1; 25 U.S.C. 3101 *et seq.*; 43 U.S.C. 1701 *et seq.*

1437.100 General.

This part establishes consistent and efficient procedures to allow contractors the option to remove woody biomass by-products from Department of the Interior land management activities where ecologically appropriate. If the woody biomass has fair market value and payment is required, or as required by regulation, Bureau policy or the Mineral Materials Disposal Act of 1947 (30 U.S.C. 601 *et. seq*), a separate timber/vegetative sales contract must be executed.

1437.101 When can woody biomass be removed?

(a) The Department of the Interior allows and encourages contractors to remove and use woody biomass from project areas when:

(1) The biomass is generated during land management service contract activity; and

(2) Removal is ecologically appropriate.

(b) A contractor removing biomass under this part shall:

(1) Do so only within legal limits applicable to the contractor, including National Environmental Policy Act (NEPA) compliance; and

(2) If required, comply with the terms, conditions and special provisions of the applicable timber/vegetative sales notice.

1437.102 When is the biomass utilization clause required?

This section applies to any solicitation or contract that is expected to generate woody biomass that meets the requirements of § 1437.101 unless biomass removal is already required in the service contract. The agency contracting officer will:

(a) Insert in the solicitation or contract the clause in § 1437.103;

(b) Specify any limitations on types of woody biomass that may not be removed; and

(c) Specify any areas from which woody biomass must not be removed.

1437.103 Format of woody biomass utilization clause.

The contracting officer must insert a clause reading substantially as follows in each solicitation and contract that meets the criteria in § 1437.101(a):

Utilization of Woody Biomass

1. The contractor may remove and utilize woody biomass, if:

(a) Project work is progressing as scheduled; and

(b) Removal is completed before contract expiration.

2. To execute this option, the contractor must submit a written request to the Government.

3. Following receipt of the written request, and if appropriate, the Government and the contractor will negotiate and execute a separate timber/vegetative sales contract. Payment under this sales contract must be at a price equal to or greater than the appraised value before the removal of any woody biomass. The contractor must make any appropriate payment specified in this timber/vegetative sales contract.

4. If required by law, regulation or Bureau policy, the Government will prepare a timber/vegetative sales notice and/or prospectus, including volume estimates, appraised value and any appropriate special provisions.

5. The contractor must treat any woody biomass not removed in accordance with the specifications in the service contract.

6. The sales contract and service contract are severable; default or termination under either contract does not remove the contractor from payment or performance obligations under the other contract.

1437.104 Definitions.

Ecologically appropriate means those situations where the Deciding Officer and/or Contracting Officer determine it is not necessary to retain specific woody material and/or reserve specific areas from woody biomass removal to meet ecological objectives. For example, it may be necessary to retain snags or small woody debris to meet wildlife habitat objectives, or to create specific prescribed burning conditions to stimulate native plant development; therefore it would not be appropriate to allow removal of the specified woody biomass.

Timber/vegetative sales contract and/or notice means the agency-specific authorized contract instrument for the sale, barter, exchange, billing or other compensation for the payment, removal, and/or transportation of woody biomass material.

Woody biomass means the trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland environment, that are the by-products of management, restoration and/or hazardous fuel reduction treatment.

Woody biomass utilization or use means the harvest, sale, offer, trade, and/or utilization of woody biomass to produce the full range of wood products, including timber, engineered lumber, paper and pulp, furniture and value-added commodities, and bio-energy and/or bio-based products such as plastics, ethanol and diesel.

[FR Doc. 04–19592 Filed 8–26–04; 8:45 am]

BILLING CODE 4310–RF–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 040427134–4230–02; I.D. 042004D]

RIN 0648–AR64

Fisheries of the Exclusive Economic Zone Off Alaska; Fish Meal

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to allow processors to use the offal from

Pacific salmon (salmon) and Pacific halibut (halibut) intended for the Prohibited Species Donation (PSD) program for commercial products including fish meal, fish oil, and bone meal. This action is necessary to change current regulations which prohibit the sale of any parts of salmon or halibut that are processed under the PSD program. This action is intended to promote the objectives of the PSD program and the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act).

DATES: Effective on September 27, 2004.

ADDRESSES: Copies of the Categorical Exclusion and Regulatory Impact Review (RIR) prepared for this action, and the Environmental Assessments prepared for Amendments 26/29 and Amendments 50/50 to the Alaska groundfish fishery management plans, may be obtained from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907–586–7228, or *jason.anderson@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Exclusive Economic Zone of the Bering Sea and Aleutian Islands management area (BSAI) and the Gulf of Alaska (GOA) under the Fishery Management Plan for Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for the Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson–Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Background

Prohibited species are defined at 50 CFR 679.2 to include all species of Pacific salmon, steelhead trout, Pacific halibut, Pacific herring, king crab and Tanner crab caught by a vessel regulated under part 679 while fishing for groundfish in the BSAI or GOA.

All prohibited species catch (PSC) is to be avoided, but if caught while fishing for groundfish, prohibited species must be returned to the sea with a minimum of injury, under regulations at 50 CFR 679.21.

Some groundfish fishing vessels are incapable of sorting their catch at sea, and deliver their entire catch to an onshore processor or a processor vessel. Sorting and discarding of prohibited species occurs at delivery. To reduce the amount of edible protein discarded in that process, the Council initially recommended the PSD program for salmon, which was implemented by NMFS in 1996. The program was expanded to include halibut in 1997. Regulations implementing the PSD program are found at 50 CFR 679.26.

The PSD program allows PSC salmon and halibut to be processed and distributed through tax–exempt hunger relief organizations. The implementing regulations prohibit authorized distributors and persons conducting activities supervised by authorized distributers from consuming or retaining prohibited species for personal use. They may not sell, trade or barter any prohibited species that are retained under the PSD program.

In 2001, processors stopped retaining salmon under the PSD program because current regulations prohibit them from processing and selling the waste parts of salmon (e.g., heads, guts, bones, skin) that are not distributed under the PSD program. Processors found it impractical to separate this offal from the leftover parts of commercial groundfish, which they render into meal and oil, products that may be marketed.

To stop the processing of PSC salmon and halibut for this reason, however, would defeat the PSD program's purpose of donating fish for hunger relief that otherwise would be discarded. Therefore, NMFS Enforcement issued an advisory bulletin on April 4, 2002 (Information Bulletin 02–30), stating that NMFS would not enforce regulations that prohibit converting halibut or salmon offal into meal under the PSD program. According to the bulletin, ''NMFS does not believe that retention of Pacific halibut or salmon heads and guts for meal constitutes sufficient potential for revenue to undermine the intent of the PSD program. Rather, concern continues to be focused on prohibiting the sale, trade or barter of edible flesh. Therefore, NMFS intends to propose regulations that would clarify the conditions under which parts of prohibited species may be retained by a processor in a manner that would not undermine the intent of the PSD program.''

This action amends the PSD program regulations at 50 CFR 679.26(d) to allow processors to convert offal from salmon or halibut that has been prepared for the PSD program into fish meal, fish oil, or bone meal, and retain the proceeds from the sale of these products. This action was described in the proposed rule published May 5, 2004 (69 FR 25056). Comments on the proposed rule were invited through June 4, 2004, and are summarized and responded to below. The final rule remains unchanged from the proposed rule.

Comments and Responses

Three letters of comment were received on the proposed rule that contained eight unique comments. Comments are summarized and responded to here.

Comment 1: The proposed rule states that the Chief Counsel for Regulation, Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This certification is based on large processors and fails to address the broader issue of the effects of fish meal production to small, wild salmon fishermen displaced by the fish meal being shipped to Chile as food for farmed salmon. These farmed fish are marketed in direct competition with wild salmon harvested in Alaska.

Response: The Regulatory Flexibility Act requires NMFS to address the effects of a Federal action only on directly regulated small entities. None of the directly regulated entities in this action meet the SBA's criteria for a small entity. Therefore, the certification provided to the Chief Counsel for Advocacy of the SBA is appropriate.

Comment 2: Salmon from the PSD program has not been received by or benefitted the hunger and humanitarian organizations located in the area where these intercepted salmon were destined. What assurances are provided to ensure that all the PSD program fish will not be diverted into the production of animal feed instead of direct human consumption, as intended?

Response: Regulations at 50 CFR 679.26 govern the PSD program. Under these regulations, all processing, handling, and distribution of salmon and halibut must be carried out under the direction of an authorized distributor. An authorized distributor must submit an application which describes its plan for distributing fish to specifically named food bank networks and hunger relief agencies. This plan must be reviewed and approved by the Regional Administrator. NMFS only authorizes distributors who meet the minimum requirements listed under § 679.26(b). With the exception of offal used for fish meal as authorized under this action, halibut or salmon that are not processed under the direction of an authorized distributor or are sold for purposes other than human consumption is a violation of PSD program regulations and subject to enforcement action. Seashare, formerly

Northwest Food Strategies, is a non–profit organization that has participated as an authorized distributor since the PSD program's inception and is currently the only authorized distributor permitted to participate.

Comment 3: Currently, fisheries managers do not have sufficient data on the distribution of salmon from western Alaska in the BSAI and GOA due to financial constraints. If overfishing of certain western Alaska populations of chum and chinook salmon occurs, conservation measures will impact all users of fisheries resources in Alaska, including the general public. To prevent overfishing of these salmon stocks, initiatives to collect genetic information to determine the origin of salmon incidentally harvested in the Alaska groundfish fisheries should be accelerated.

Response: This action is intended to promote the objectives of the PSD program and does not regulate scientific information collection. This comment is outside the scope of this final rule; however, the following response provides general information on this topic.

Currently, research is being conducted by several countries, including the United States, under the Bering–Aleutian International Salmon Survey (BASIS). One research component of the BASIS program is to conduct biological and stock identification analyses designed to determine growth and life history characteristics of regional salmon stocks. Although results of this research initiative are not yet available, the stock identification analysis will be based on genetic, parasite, scale, otolith, and tag data collected over 5 years of international cooperative research cruises. Extensive information on the BASIS program can be found a *www.afsc.noaa.gov/abl/occ/basis.htm*. Genetic information collected under the BASIS program is part of an effort that includes NMFS and the State of Alaska to establish new baseline standards using DNA markers.

NMFS will continue to work internally to obtain necessary data through data collection programs to meet the needs of scientists. Any new or accelerated data collections, including those required for genetic analyses, would need to be prioritized and balanced with available funding and many existing and ongoing management and stock assessment data collections.

Comment 4: While it may be impractical to separate offal from salmon and halibut intended for the PSD program, allowing processors to profit from the sale of fish meal, fish oil, and bone meal made from these species is not the intent of the PSD program. Allowing the sale of products made from prohibited species does not deter the processor from trying to prevent the incidental catch of salmon. Salmon should continue to be donated under the PSD program. However, a certain percentage of the profits made from any byproduct of salmon or halibut should also be donated to meet the original intent of the PSD program.

Response: This action will generate relatively insignificant revenue for processors. Fish meal from whitefish sells for $0.24 – $0.30 per pound. Generally fish meal from salmon and halibut is mixed in with the whitefish meal from groundfish species. The revenue from fish meal derived from the PSD program would be very small compared with total fish meal produced by the participating processors. The RIR prepared for this action (see **ADDRESSES**) describes the costs fishermen must bear, including using scarce space on vessels to store PSD program fish and maintaining fish in a condition fit for human consumption. Processors also incur costs for accepting delivery, handling the appropriate paperwork and processing and storing the fish. The RIR estimates approximately $1,500 in revenue from salmon meal processed from PSD program fish for one processor of BSAI pollock. This amount is 0.025 percent of its nearly $6 million in revenue from pollock fish meal, and likely less than the cost incurred by the processor to participate in the PSD program. Therefore, the handling of salmon and halibut under the PSD program probably results in a net cost to processors and fishermen and could contribute toward incentives to avoid incidental catches of salmon and halibut to the extent possible.

Comment 5: At least 70 percent of fish caught die when returned to the sea. All catch of fish should be avoided. Catching fish and throwing them back to die is ridiculous.

Response: In order to eliminate any incentive for the groundfish fleet to target commercially exploited species that already support their own commercial fishery off Alaska, the BSAI and GOA FMPs prohibit the groundfish fisheries from retaining certain non–groundfish species. These prohibited species include all species of salmon, king and Tanner crabs, Pacific halibut, and Pacific herring. Annual prohibited species catch (PSC) limits are established that, when reached, result in specified fishery closures. Any incidentally caught prohibited species must be returned to the sea as soon as possible, with minimal injury. The exception to this discard rule is the PSD program which, as described above, was adopted by the Council to reduce the amount of edible protein discarded by some groundfish vessels without creating an incentive to target these species.

Incidental catch of non target groundfish also occurs and often is unavoidable. In recognition of this, NMFS and the Council have adopted management measures designed to create incentives to avoid bycatch when possible and to decrease regulatory and economic discards when it is not.

Comment 6: Processors should not find it impractical to separate halibut and salmon offal from parts of leftover groundfish. The proposed action only benefits processors, and is contrary to the intent of Congress and the public. The agency should require processors to separate offal from other groundfish parts.

Response: Under the current PSD program, processors may choose to process salmon for distribution through a NMFS–authorized distributer. However, processors found it impractical to separate PSD program halibut and salmon offal from the offal of other groundfish. Consequently, these processors chose not to participate in the PSD program and incidentally caught halibut and salmon were discarded at sea. This defeats the intent of the Council and the PSD program's purpose of donating fish for hunger relief that otherwise would be discarded. Participation in the PSD program is voluntary. Requiring processors to separate the offal of PSD program halibut and salmon from the offal of other groundfish species likely lead to processors choosing not to participate in the PSD program. This action allows processors to process salmon and halibut waste parts into fish meal along with offal from other species. NMFS believes this allowance will improve efficiency of the groundfish trawl fisheries without increasing incidental catch of salmon and halibut and is consistent with the Magnuson–Stevens Act.

Comment 7: I disagree with NMFS' determination that retention of halibut and salmon for meal does not constitute sufficient potential for revenue.

Response: Please see the response to Comment 4.

Comment 8: Historically, the fishing industry has a tendency to overfish resources if allowed to do so. This rule encourages overfishing and is not within the intent of the public and the Magnuson–Stevens Act.

Response: The handling of salmon and halibut under the PSD program

likely results in a net cost to processors and fishermen, and does not create incentives to increase incidental catch of prohibited species. Processors who participate in the PSD program do so on a voluntary basis at a net cost because the salmon and halibut are donated. While an unregulated fishery does tend to overfish its resource, the salmon, halibut and groundfish resources involved are closely monitored and regulated to prevent overfishing. When PSC or groundfish limits are reached, management measures are imposed which may include closing the fishery. After nearly 30 years of management under the Magnuson–Stevens Act, none of these resources are showing signs of being overfished. Therefore, NMFS does not expect overfishing to occur from this action, and it is consistent with the intent of the Magnuson–Stevens Act.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. NMFS received one comment, addressed above, regarding this certification. This comment did not cause NMFS to change its determination regarding the certification.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 23, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub. L. 106–31, Sec. 3027; and Pub L. 106–554, Sec. 209.

■ 2. In § 679.26, paragraph (d)(3) is revised to read as follows:

§ 679.26 Prohibited Species Donation Program.

* * * * *

(d) * * *

(3) Authorized distributors and persons conducting activities supervised by authorized distributors may retain prohibited species only for the purpose of processing and delivering the prohibited species to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain prohibited species for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any prohibited species that is retained under the PSD program, except that processors may convert offal from salmon or halibut that has been retained pursuant to the PSD program into fish meal, fish oil, or bone meal, and sell or trade these products.

* * * * *

[FR Doc. 04–19622 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 166
Friday, August 27, 2004

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

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 040803225–4225–01]

RIN 0691–AA51

International Services Surveys: BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations that set forth reporting requirements for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

The BE–80 survey is conducted once every five years by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act and under the Omnibus Trade and Competitiveness Act of 1988. The proposed benchmark survey will be conducted for 2004. The data are needed to compile the U.S. international transactions, national income and product, and input-output accounts; support U.S. economic policy; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The proposed rule would change the reporting of data on international transactions in financial services by: Creating a new category for brokerage services related to equities transactions; collecting total receipts and total payments for financial services transactions with affiliated foreign parties (that is, with foreign affiliates and foreign parents); and revising the definition of a financial services provider to more fully align the definition with the North American Industry Classification System—2002.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before October 26, 2004.

ADDRESSES: You may submit comments, identified by RIN 0691–AA51, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal: HTTP://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: obie.whichard@bea.gov.*
- *Fax:* Office of the Chief, International Investment Division, (202) 606–5318.
- *Mail:* Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230.
- *Hand Delivery/Courier:* U.S. Department of Commerce, Bureau of Economic Analysis (BE–50), Shipping and Receiving Section, room M–100, 1441 L Street, NW., Washington, DC 20005.

Public Inspection: Comments may be inspected at BEA's offices, 1441 L Street, NW., Room 7006, between 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: This proposed rule would amend 15 CFR part 801.11 to set forth reporting requirements for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

Description of Revisions

The BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, is mandatory and is conducted every 5 years by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108)—hereinafter, ''the Act,'' and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1998 (15 U.S.C. 4908). BEA will send the survey to potential respondents in January 2005, and a response will be due by March 31, 2005. BEA proposes the following changes to the Code of Federal Regulations: (1) Break the category for brokerage services into two categories, by collecting information on services related to equities transactions separately from other brokerage services; (2) add questions covering total receipts and total payments for transactions in financial services with affiliated foreign parties (*i.e.*, foreign affiliates and foreign parents); and (3) revise the definition of a financial services provider to more fully align the definition with the 2002 version of North American Industry Classification System. The forms and instructions for the 2004 benchmark survey would be amended to reflect these proposed changes to the Code of Federal Regulations.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108)—hereinafter, ''the Act,'' and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1998 (15 U.S.C. 4908). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public and the United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection. In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated the authority under the Act as concerns international trade in services to the

Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to compile the U.S. international transactions, national income and product, and input-output accounts; support U.S. international economic policy; assess U.S. competitiveness in international trade in financial services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The survey is intended to cover the universe of financial services transactions between U.S. financial services providers and foreign persons. Reporting is required from U.S. financial services providers who have sales to or purchases from unaffiliated foreign persons in all financial services combined in excess of $3 million during the reporting year. Financial services providers meeting these criteria must supply data on the amount of their sales or purchases with unaffiliated foreign persons for each type of covered service, disaggregated by country, and must report transactions with foreign affiliates and foreign parents at the global level for both total sales and total purchases of the covered financial services. U.S. financial services providers that have covered transactions of $3 million or less during the reporting year are asked to provide voluntary estimates of their total sales and total purchases of each type of financial service.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA). The requirement has been submitted to OMB for approval as a reinstatement, with change, of a previously approved collection for which approval has expired under OMB control number 0608–0062.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget control number. The survey, as proposed, is expected to result in the filing of reports from approximately 375 respondents. The respondent reporting burden for this collection of information is estimated to vary from less than four hours to 150 hours, with an overall average burden of 8 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total respondent burden of the survey is estimated at 3,000 hours (375 responses times 8 hours average burden).

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and either faxed (202–395–7245) or e-mailed (*pbugg@omb.eop.gov*) to the Office of Management and Budget, O.I.R.A. (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Although BEA does not collect data on total sales or other measures of the overall size of the businesses that respond to the survey, historically the respondent universe has been comprised mainly of major U.S. corporations. With the exemption level for the survey being $3 million for all covered receipts or for all covered payments, the reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. Of those smaller businesses that must report, most will tend to have specialized operations and activities and thus will be likely to report only one type of service transaction, often limited to transactions with a single partner country; therefore, the burden on them can be expected to be small.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: July 30, 2004.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 is revised to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; and E.O. 11961, January 19,1977 (as amended by E.O. 12318, August 21, 1981, and E.O. 12518, June 3, 1985).

2. Section 801.11(b) and (c) are revised to read as follows:

(b) *BE–80 definition of financial services provider.* The definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for these firms (part of Sector 55—Management of Companies and Enterprises, of the North American Industry Classification System, United States, 2002). For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); nondepository credit intermediation (including credit card issuing, sales financing, and other nondepository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing, reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts dealing, and commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio

management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other financial vehicles); and holding companies that own, or influence the management decisions of, firms principally engaged in the aforementioned activities.

(c) *Covered types of services.* The BE–80 survey covers the following types of financial services transactions (purchases and/or sales) between U.S. financial services providers and unaffiliated foreign persons: Brokerage services related to equities transactions; other brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services. The BE–80 also covers total receipts and total payments for the above-listed types of financial services transactions with affiliated foreign parties (foreign affiliates and foreign parents).

[FR Doc. 04–19561 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–04–147]

RIN 1625–AA08

Special Local Regulations for Marine Events; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''Cambridge Offshore Challenge'', a marine event to be held over the waters of the Choptank River at Cambridge, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Choptank River during the event.

DATES: Comments and related material must reach the Coast Guard on or before September 16, 2004.

ADDRESSES: You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. The Auxiliary and Recreational Boating Safety Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–04–147), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

In order to provide notice and an opportunity to comment before issuing an effective rule, we are providing a shorter than normal comment period. A 20-day comment period is sufficient to allow those who might be affected by this rulemaking to submit their comments because the regulations have a narrow, local application, and there will be local notifications in addition to the **Federal Register** publication such as press releases, marine information broadcasts, and the Local Notice to Mariners. If as we anticipate, we make the final rule effective less than 30 days after publication in the **Federal Register**, we will explain in the final rule, as required by 5 U.S.C. (d)(3), our good cause for doing so.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 26, 2004, the Chesapeake Bay Powerboat Association will sponsor the ''2004 Cambridge Offshore Challenge'', on the waters of the Choptank River at Cambridge, Maryland. The event will consist of approximately 50 offshore powerboats conducting high-speed competitive races between the Route 50 bridge and Chancellor Point. A fleet of approximately 250 spectator vessels is expected to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Choptank River. The temporary special local regulations will be enforced from 10:30 a.m. to 5:30 p.m. on September 26, 2004, and will restrict general navigation in the regulated area during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the

regulatory policies and procedures of DHS is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Choptank River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would 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 Choptank River during the event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only a limited period. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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 contact the address listed under **ADDRESSES.** The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed 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)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 100.35–T05–147 to read as follows:

§ 100.35–T05–147 Choptank River, Cambridge, MD.

(a) *Definitions:* As used in this section —*Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant includes all vessels participating in the 2004 Cambridge Offshore Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Activities Baltimore.

Regulated area includes all waters of the Choptank River, from shoreline to shoreline, bounded to the west by the Route 50 bridge and bounded to the east by a line drawn longitude 076°01′30″ W at Chancellor Point. All coordinates reference Datum: NAD 1983.

(b) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) Unless otherwise directed by the Official Patrol, operate at a minimum wake speed not to exceed six (6) knots.

(c) *Enforcement period.* This section will be enforced from 10:30 a.m. to 5:30 p.m. on September 26, 2004.

Dated: August 16, 2004.

Ben R. Thomason, III,

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

[FR Doc. 04–19565 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–04–117]

RIN 1625–AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Elizabeth River (Southern Branch), VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations that govern the operation of the Norfolk Southern #7 Railroad Bridge across the Southern Branch of the Elizabeth River at Atlantic Intracoastal Waterway mile 5.8, in Chesapeake, Virginia. The proposed rule would increase vessel openings and eliminate the need for a bridge tender by allowing the bridge to be operated from a remote location. This change will provide for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before October 26, 2004.

ADDRESSES: You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or they may be hand delivered to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. The telephone number is (757) 398–6222. The Commander (obr), Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6422.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–04–117), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Commander, Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Norfolk Southern Corporation (NSC) requested a change to the current operating regulation set out in 33 CFR Part 117.5 that requires the drawbridge to open promptly and fully for the passage of vessels when a request to open is given.

NSC proposes to remotely control the opening and closing of the Norfolk Southern (NS) #7 Railroad Bridge across the Southern Branch of the Elizabeth River at Atlantic Intracoastal Waterway

(AICW) mile 5.8 in Chesapeake, Virginia, by the remote operator at the NS #5 Railroad Bridge, across the Eastern Branch of the Elizabeth River, at mile 1.1, in Norfolk, Virginia. NSC installed a Programmable Logic Controller and associated mechanical, electrical and signal apparatus on the drawbridge. NSC has installed motion sensors, laser scanners and high-resolution video cameras on the bridge to enhance the remote operator's ability to monitor and control the equipment. The NS #5 Railroad Bridge office, in Norfolk, is also equipped with an amplified open-mike from the bridge to enable the remote operator to hear boat horns that may signal for an opening. NS has also installed additional safety warning lights to the bridge for the remote operation.

This change is being requested to make the closure process of the NS #7 Railroad Bridge more efficient. It will save operational costs by eliminating bridge tenders, and is expected to decrease maintenance costs. In addition, the draw being left in the open position most of the time will provide for greater flow of vessel traffic than the current regulation.

Discussion of Proposed Rule

The Coast Guard proposes to amend the regulations governing the NS #7 Railroad Bridge across the Southern Branch of the Elizabeth River, at AICW mile 5.8, which currently opens on signal. The Coast Guard proposes to insert this new specific regulation at 33 CFR 117.997(e).

A new paragraph (e) would contain the proposed rule for the NS #7 Railroad Bridge, at AICW mile 5.8, in Chesapeake. The rule would allow the drawbridge to be remotely controlled by the off-site remote operator at the NS #5 Railroad Bridge office across the Eastern Branch of the Elizabeth River, at mile 1.1, in Norfolk. The drawbridge would be left in the open position to vessels and would only close for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of part 117.

Before the NS #7 Railroad Bridge closes for any reason, the remote operator will monitor waterway traffic in the area with closed circuit cameras and motion sensors mounted on the bridge. The bridge would only be closed if the off-site remote operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

While the NS #7 Railroad Bridge is moving from the full open position to the full closed position, the off-site remote operator will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists. In the event of failure or obstruction, the off-site remote operator will stop and return the bridge to the full open position to vessels. In these situations, a bridge tender must be called and on-site within 30 minutes to operate the bridge.

During span movement, the channel traffic lights would change from flashing green to flashing red, the horn will sound twice, and an audio voice warning device will announce bridge movement, then two repeat blasts of the horn until the bridge is seated and locked down. When the bridge is seated and locked down to vessels, the channel traffic lights will flash red.

When the rail traffic has cleared, the horn will automatically sound five times to indicate that the draw of the NS #7 Railroad Bridge is about to return to its full open position to vessels. During the open span movement, the channel traffic lights would flash red, the horn will sound twice, followed by a pause, and then five repeat blasts of the horn until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will turn from flashing red to flashing green then an audio warning device will announce bridge movement by stating ''Security, security, security, the NS #7 Railroad Bridge at mile 5.8 is open for river traffic''. After the train has cleared the bridge by leaving the track circuit, any delay in opening of the draw to vessels shall not exceed ten minutes except as provided in 33 CFR 117.31(b). Operational information will be provided 24 hours a day on marine channel 13 and via telephone (757) 924–5320.

The Coast Guard proposes to revise § 117.997 by redesignating paragraphs (e) through (i) and inserting a new paragraph (e). Text modifications to be consistent with other proposed changes will be made in these paragraphs, as appropriate.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that the proposed changes for the NS #7 Railroad Bridge regulation will provide for greater flow of vessel traffic than the current regulations of the drawbridge.

Under the current regulations, the NS #7 Railroad Bridge remains closed and opens only on signal to vessels. The proposed regulation will require the bridge to remain in the open position permitting vessels to pass freely. The bridge will close only for train crossings and bridge maintenance. This proposed regulation will provide for the reasonable needs of navigation.

Small Entities

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

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

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. The rule will provide for the NS #7 Railroad Bridge to remain in the open position, allowing for the free flow of vessel traffic. The bridge would only close for the passage of trains and maintenance.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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

Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not affect 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, 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 (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.997, redesignate paragraphs (e) through (i) as paragraphs (f) through (j) respectively, and add a new paragraph (e) to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.

* * * * *

(e) The draw of the Norfolk Southern #7 Railroad Bridge, mile 5.8 in Chesapeake, shall operate as follows:

(1) The draw shall be remotely controlled by the operator at the Norfolk Southern #5 Railroad Bridge office over the Eastern Branch of the Elizabeth River, at mile 1.1, in Norfolk.

(2) The draw shall be left in the open position to vessels and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(3) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in § 117.31(b).

(4) Before the bridge closes for any reason, the off-site remote operator will monitor waterway traffic in the area with closed circuit cameras and motion sensors mounted on the bridge. The bridge would only be closed if the off-site remote operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

(5) While the bridge is moving from the full open position to the full closed position, the off-site remote operator will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists. In the event of failure or obstruction, the off-site remote operator will stop and return the bridge to the full open position to vessels. In these situations, a bridge tender must be called and on-

site within 30 minutes to operate the bridge.

(6) During closing of the span, the channel traffic lights would change from flashing green to flashing red, the horn will sound twice, and an audio voice warning device will announce bridge movement, then two repeat blasts of the horn until the bridge is seated and locked down. When the bridge is seated and locked down to vessels, the channel traffic lights will flash red.

(7) During the open span movement, the channel traffic lights would flash red, the horn will sound twice, followed by a pause, and then five repeat blasts of the horn until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will turn from flashing red to flashing green then an audio warning device will announce bridge movement by stating ''Security, security, security, the Norfolk Southern #7 Railroad Bridge at mile 5.8 is open for river traffic''.

(8) Operational information will be provided 24 hours a day on marine channel 13 and via telephone (757) 924–5320.

* * * * *

Dated: August 18, 2004,

Ben R. Thomason, III,

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

[FR Doc. 04–19564 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 402

[CMS–6146–CN]

RIN 0938–AL53

Medicare Program; Revised Civil Money Penalties, Assessments, Exclusions, and Related Appeals Procedures

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a technical error that appeared in the proposed rule published in the **Federal Register** on July 23, 2004 entitled ''Medicare Program; Revised Civil Money Penalties, Assessments, Exclusions, and Related Appeals Procedures.''

FOR FURTHER INFORMATION CONTACT: Joel Cohen, (410) 786–3349.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 04–16791 of July 23, 2004 (69 FR 43956), there was a technical error that is identified and corrected in the Correction of Errors section below.

We inadvertently omitted the correct **ADDRESSES** section, which included the e-mail address for electronic comments. We are correcting this error by republishing the **ADDRESSES** section of the proposed rule.

II. Correction of Errors

In FR Doc. 04–16791 of July 23, 2004 (69 FR 43956), make the following correction:

1. On page 43956, in the third column; in the second paragraph, replace the **ADDRESSES** section with the following:

ADDRESSES: In commenting, please refer to file code CMS–6146–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/regulations/ecomments.* (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By mail.* You may mail written comments (one original and two copies) to the following address only:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–6146–P, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7197 in advance to schedule your arrival with one of our staff members.

Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice take effect. We can waive this procedure, however, if we find good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides a technical correction to the regulation. Therefore, we find good cause to waive notice and comment procedures.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 16, 2004.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 04–19257 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431 and 457

[CMS–6026–P]

RIN 0938–AM86

Medicaid Program and State Children's Health Insurance Program (SCHIP): Payment Error Rate Measurement

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require State agencies to estimate improper payments in the Medicaid program and SCHIP program. The Improper Payments Information Act of 2002 requires Federal agencies to annually review and identify those programs and activities that may be susceptible to significant erroneous

payments, estimate the amount of improper payments and report those estimates to the Congress and, if necessary, submit a report on actions the agency is taking to reduce erroneous payments.

The intended effect and expected results of this proposed rule would be for States to produce improper payment estimates for their Medicaid and SCHIP programs and to identify existing and emerging vulnerabilities that can be addressed by the States through actions taken to reduce the rate of improper payments and produce a corresponding increase in program savings at both the State and Federal levels.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 27, 2004.

ADDRESSES: In commenting, please refer to file code CMS–6026–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/regulations/ecomments.* (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word).

2. *By mail.* You may mail written comments (one original and two copies) to the following address only:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–6026–P, P.O. Box 8017, Baltimore, MD 21244–8017.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Submission of comments on paperwork requirements. You may submit comments on this document's paperwork requirements by mailing your comments to the addresses provided at the end of the ''Collection of Information Requirements'' section in this document.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Christine Saxonis, (410) 786–3722.

Janet E. Reichert, (410) 786–4580.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–6026–P and the specific ''issue identifier'' that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. After the close of the comment period, CMS posts all electronic comments received before the close of the comment period on its public Web site. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7195.

I. Background

[If you choose to comment on issues in this section, please include the caption ''Background'' at the beginning of your comments.]

A. Legislative History

The Improper Payments Information Act of 2002 (Pub. L. 107–300, enacted on November 26, 2002) requires Federal agencies to annually review and identify those programs and activities that may be susceptible to significant erroneous payments, estimate the amount of improper payments, and report those estimates to the Congress and, if necessary, submit a report on actions the agency is taking to reduce erroneous payments. Under the Improper Payments Information Act, ''improper payment'' is defined as (a) any payment made that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and (b) includes any payment to an ineligible recipient; any payment for an ineligible service; any duplicate payment; payments for services not received; and any payment that does not account for credit for applicable discounts. Under the statute, the term ''payment'' means any payment (including a commitment for future payment, such as a loan guarantee) that is (a) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and (b) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

The law applies with respect to improper payments made in fiscal years after fiscal year (FY) 2002 and requires inclusion of improper payment estimates for fiscal years after FY 2003.

To comply with the Improper Payments Information Act, the Secretary must estimate improper payments made under Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP). We have been estimating improper payments in the Medicare program since 1996 as part of the annual Chief Financial Officer's audit conducted by the Office of Inspector General. However, no systematic means of measuring overall program payment errors at the State and national levels currently exists for Medicaid and SCHIP. Since the Medicaid and SCHIP programs are administered by State agencies according to each State's unique program characteristics, State involvement in estimating improper payments is necessary for the Secretary to comply with the provisions of the Improper Payments Information Act.

The Improper Payments Information Act directed the Office of Management and Budget (OMB) to provide subsequent guidance. OMB defines significant erroneous payments as annual erroneous payments in the program exceeding both 2.5 percent of program payments and $10 million. For all programs and activities susceptible

to significant erroneous payments, Federal agencies shall determine an annual estimated amount of erroneous payments and, for those programs with erroneous payments exceeding $10 million, identify the reasons the programs are at risk and put in place a plan to reduce them, including setting targets for future erroneous payment levels and a timeline by which the targets will be reached. In the report to the Congress, Federal agencies shall include the following:

- The estimate of the annual amount of erroneous payments.
- A discussion of the causes and actions taken to correct the causes.
- A discussion of the amount of actual erroneous payments the agency expects to recover.
- Limitations that prevent the agency from reducing the erroneous payment levels, that is, resources, or legal barriers.

1. The Medicaid Program

Title XIX of the Social Security Act (the Act) authorizes States to provide health care services to low-income individuals and families through the Medicaid program. The Medicaid program is funded through Federal/State partnership whereby the State sets its own eligibility standards, benefit packages, and payment rates within broad Federal guidelines. In FY 2002, Medicaid program expenditures for health care services alone were $246 billion (not including administrative expenditures).

2. State Children's Health Insurance Program (SCHIP)

Title XXI of the Act authorizes States to initiate and expand the provision of child health assistance to uninsured, low-income children. Under title XXI, States may provide child health assistance primarily for obtaining health benefits coverage through the following:

- A separate child health program that meets the requirements specified under section 2103 of the Act; or
- Expansion of eligibility for benefits under the State's Medicaid plan under title XIX of the Act; or
- A combination of the two approaches.

SCHIP is jointly financed by the Federal and State governments and is administered by the States. Each State determines the design of its program, eligibility groups, benefit packages, payment levels for coverage, and administrative and operating procedures. SCHIP provides a capped amount of funds to States on a matching basis for Federal FYs 1998 through 2007. In 1997, the Congress appropriated nearly $40 billion over 10 years to help States expand health care coverage to uninsured children. Over 5.3 million children were enrolled in SCHIP nationwide in FY 2002.

B. Measuring Payment Accuracy in Medicaid and SCHIP

1. The Payment Accuracy Measurement (PAM) Project

In FY 2000, we developed the PAM project to explore the feasibility of developing a method to estimate improper payments for the Medicaid program in response to the Government Performance and Results Act of 1993 (GPRA), Public Law No. 103–62, (1993). We will refer to the method to estimate improper payments as Payment Error Rate Measurement (PERM) in this proposed rule. We will use the term PAM in this discussion to describe the research and development project that was the precursor to PERM.

The PAM model uses a claims-based sample and review methodology and has been designed to estimate a State-specific payment error rate that is within +/−3 percent of the true population error rate with 95 percent confidence. Moreover, through weighted aggregation, the State-specific estimates can be used to make national level improper payment estimates for the Medicaid and SCHIP programs.

In the first year of the PAM Project, nine States voluntarily tested methodologies intended to produce State-specific improper payment estimates. From these tested methodologies and best practices, from the nine States, we developed the PAM model both to produce a State-specific payment accuracy rate that is within +/−3 percent of the true population accuracy rate with 95 percent confidence and to provide us with both the uniformity and precision to estimate improper payments at the national level while maintaining sufficient flexibility to enable States to produce State-specific estimates. In the second year, the PAM model was modified to conform to the Improper Payments Information Act of 2002 by including improper payments attributable to underpayments, overpayments, and improper payments attributable to ineligible beneficiaries. Twelve States tested the PAM model in their Medicaid fee-for-service and managed care programs. The second year test identified problem areas that needed resolution, produced project time savers, administrative tips, and realistic cost estimates that helped us to refine the PAM model for the third year. In the third year, 27 States are testing the PAM model; 11 States in Medicaid, 3 States in SCHIP, and 13 States in both programs. Each State will identify improper payments due to overpayments, underpayments, and payments made to ineligible persons in fee-for-service and/or managed care settings for both programs.

2. The Payment Error Rate Measurement Program (PERM)

Since each State's Medicaid and SCHIP programs are unique in their program characteristics, it is critical that States provide us with State-specific improper payment estimates under the PERM program so we can estimate improper payments at the national level for these programs. With the challenges States are facing due to budget constraints and staffing shortages, it is unlikely that all States would voluntarily implement the current PAM model even though Federal and State program savings would be realized as a result of actions taken by the States to address problem areas identified through the process of estimating improper payments. However, the Secretary is required by the Improper Payments Information Act of 2002 to annually review all programs and activities (including Medicaid and SCHIP) to determine whether these programs are susceptible to significant improper payments and, because of the differences in the Medicaid and SCHIP programs nationwide, we must rely on State-specific information in order to make this determination.

Current law at section 1102 of the Act authorizes the Secretary to establish regulations as may be necessary to the efficient administration of the Medicaid and SCHIP programs. Medicaid law at section 1902(a)(6) of the Act and SCHIP law at section 2107(b)(1) of the Act require States to provide information necessary for the Secretary to monitor program performance. Through these statutory provisions, this proposed rule would require States to provide the Secretary with the information needed to monitor program performance by:

- Measuring improper payments in the Medicaid and SCHIP programs; and
- Providing State level improper payment estimates to the Secretary for calculating a national level improper payment estimate.

We believe the basic PAM model being pilot tested by many States can be implemented nationwide under the PERM program. The PAM model would effectively provide all States with the method needed to produce State-specific improper payment estimates on which we can base the national improper payment estimates needed to

comply with the provisions of the Improper Payments Information Act of 2002.

II. Provisions of the Proposed Rule

[If you choose to comment on issues in this section, please include the caption ''Provisions of the Proposed Rule'' at the beginning of your comments.]

This proposed rule would enable the Secretary to comply with the requirements under the Improper Payments Information Act by producing a national improper payment estimate for the Medicaid and SCHIP programs using the State-specific estimates reported by the States. This proposed rule would allow the Secretary to monitor State performance in administering the Medicaid and SCHIP programs and maintain an overview of Medicaid and SCHIP improper program expenditures in an efficient manner.

This proposed rule builds upon the PAM model and proposes requirements that States must meet to produce State-specific improper payment estimates and report those estimates to the Secretary for the purpose of computing a national improper payment estimate. We plan to release guidance addressing any immediate questions States may have after reviewing the provisions of the final regulations within 60 days of the effective date of the regulation followed by detailed instructions describing the methods and procedures for estimating the payment error rate as necessary. However, we formally invite States to comment on the specific information they will need to implement the PERM program before the final regulation is published. We also will be seeking ways to solicit State input regarding the guidance so that States will know how to prepare for program implementation. The provisions of this proposed rule would be set forth in a new 42 CFR (Code of Federal Regulations) part 431, subpart Q and in part 457, subpart G as follows:

Part 431—State Organization and General Administration

Subpart Q—Requirements for Estimating Improper Payments in Medicaid and SCHIP

Section 431.950 Purpose

This proposed rule would require States to estimate, on the annual October through September Federal fiscal year basis, annually total improper payments and produce payment error rates in Medicaid and SCHIP using the PERM methodology. This proposed rule also would require States to provide these estimates to CMS by June 1 of the following year for the purpose of CMS reporting a national estimate of improper payments in those programs to OMB by November 15. This timeline will allow OMB to compile the information in the Department's Performance and Accountability Report to the Congress. In conducting medical records reviews and eligibility reviews, States must adhere to the requirements of protection of recipient rights including those in § 435.901 and § 435.902.

We propose a process for estimating improper payments in both Medicaid and SCHIP in each State and the District of Columbia annually. From these State-level estimates, a national estimate of improper payments in each program will also be estimated. We propose to exclude the Territories from these regulatory requirements because the funding for the Medicaid and SCHIP programs is minimal, is subject to specific limits on Federal financial participation for each Territory, and inclusion of improper payment estimates for the Territories' Medicaid and SCHIP programs in the PERM program would not have an impact on the national error rate estimates for these programs.

Following the initial estimation of the error rate and improper payments, the States would take actions to address problem areas that result in improper payments. Improvement will be tracked over time through the States' annual payment error estimates.

States must also submit an Annual PERM Report to CMS by June 1 following the previously completed sampling period. The report must list the errors which the State identified in its review (and identify which amounts were overpayments, underpayments, and payments for ineligible individuals/services), explain the causes of the errors and explain the actions it will take to address those errors and to reduce the level of improper payments.

State Plan Requirements: Review and Sample Procedures for Estimating Improper Payments in Medicaid and SCHIP

Section 431.954 Basis and Scope

The statutory bases for this subpart are sections 1102, 1902(a)(6), and 2107(b)(1) of the Act, which authorize the Secretary to make rules and regulations necessary to the efficient administration of the Medicaid and SCHIP programs and require States to provide information, as the Secretary may need, to monitor program performance.

In addition, this rule would support the Improper Payments Information Act of 2002 which requires Federal agencies to—

- Review annually and identify those programs and activities that may be susceptible to significant erroneous payments;
- Estimate the amount of improper payments; and
- Report those estimates to the Congress and, if necessary, submit a report on actions the agency is taking to reduce erroneous payments.

This proposed rule would require States under the current statutory provisions as stated in paragraph (a) of this section and in support of the Improper Payments Information Act to estimate improper payments using the PERM methodology for the Medicaid and SCHIP programs on an annual basis. The States are further required to submit payment error rates to CMS for the purpose of calculating a national level payment error rate.

This provision in the proposed rule would ensure the consistency of State estimates of improper payments through the monthly sample and review of Medicaid and SCHIP claims in which Federal funds were paid for services furnished in both the fee-for-service and managed care settings. The PERM methodology requires sampling from the Medicaid universe and SCHIP universe, reviewing sampled claims, and reporting results. Using specified formulas, the improper payment estimate for each program is based on the gross total of overpayments and underpayments (that is, the absolute value rather than the net value) and payments to ineligibles. The estimate is also within +/−3 percent of the true population error rate with 95 percent confidence.

Section 431.958 Definitions and Use of Terms

In § 431.958, we propose the following definitions and use of terms for part 431, subpart Q:

Adjustments to claims means that adjustments to claims are not included in the universe from which the sampled claims/line items are drawn. However, all adjustments to a sampled claim that occur within 60 calendar days after the payment adjudication date would be included in the review of the sampled claim.

Improper payment means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient, any payment for an ineligible

service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

Payment means any payment to a provider, insurer or managed care organization for a Medicaid or SCHIP recipient for which there is Medicaid or SCHIP Federal financial participation.

Payment error rate means an annual estimate of improper payments made under Medicaid and SCHIP equal to the sum of the overpayments (including payments to ineligible recipients) and underpayments, expressed as a percentage of total payments made over the sampling period.

Payment error rate change means the percentage point change in the payment error rate from one year to the next year.

PERM stands for Payment Error Rate Measurement.

Precision level means an estimate that is within +/−3 percentage points of the true population payment error rate with 95 percent confidence for the Medicaid program and for the SCHIP program, and within +/−4 percentage points of the true population payment error rate with 90 percent confidence for each fee-for-service component and managed care component in the Medicaid program and the SCHIP program. Sample sizes for each component should be sufficient to achieve the required precision level for Medicaid and SCHIP when the components are combined into a program estimate. If the State's Medicaid or SCHIP program consists of only one component, the precision level as defined for the Medicaid and SCHIP programs applies.

Sampling period means the sampling period is October 1 through September 30.

Sampling unit means the individually priced service line item drawn from the universe, whether paid or denied. On claims with multiple line items that are not individually priced, the claim is the sampling unit. Capitation payments or premium payments are considered line items for the purpose of sampling, reviewing, and calculating an error rate.

Total estimated improper payments means the estimate of the combined total amount of Federal and State improper payments as projected to the universe.

Universe—means the entirety of all paid and denied claims/line items submitted by providers, insurers, or managed care organizations that were received and processed for Medicaid or SCHIP payment during the sampling period. The Medicaid universe consists of all claims/line items, including capitated payments or premium payments, for which the State claimed title XIX Federal funds or would have claimed title XIX Federal funds if the claim had not been denied. The SCHIP universe consists of all claims/line items, including capitated payments or premium payments, whether made under a Medicaid expansion or separate child health program, for which the State claimed title XXI Federal funds or would have claimed title XXI Federal funds if the claim had not been denied. Provider, insurer, or managed care organization claims that were adjudicated but for which no payment was made are included in the appropriate universe (Medicaid or SCHIP). Claims that cannot be processed and adjudicated for payment are not included in the universe.

Section 431.962 State Plan Requirements

In § 431.962, we propose that the State plan would implement the PERM program for estimating the payment error rate in both Medicaid and SCHIP annually; the State would submit those estimates to the Secretary by June 1 following the most recently completed annual error rate estimation for the purpose of CMS calculating and reporting a national payment error rate for these programs to OMB by November 15. This timeline is necessary for OMB to compile the information in the Department's Performance and Accountability Report to the Congress.

Section 431.966 Protection of Recipient Rights

In § 431.966, we propose that State collection and review of documentation for the purpose of conducting payment error rate measurement must be done in a manner that is consistent with the rights of recipients including those required under § 435.901 and § 435.902.

Section 431.970 Payment Error Rate

In § 431.970, we propose that States must submit to the Secretary payment error rates for both Medicaid and SCHIP annually. Payment error rates would be estimated based upon the documentation review of a random sample of paid and denied claims/line items drawn from the universe of claims from each program. The payment error rate estimate must meet the required precision level in each program.

The goal of PERM is to produce a State-level estimate of the Medicaid error rate and the SCHIP error rate that meets or exceeds required precision levels and that also can be aggregated to a national level error rate for each program. Within both the Medicaid and the SCHIP program, separate monthly samples should be drawn for fee-for-service claims or line items and managed care or insurance premium payments, if applicable to the State. Separate estimates of a fee-for-service error rate and managed care error rate will be estimated from these samples for each program, as applicable to the State. The precision level at either the fee-for-service or managed care level can be lower than the precision requirements at the State's program level for Medicaid and for SCHIP. However, when the separate estimates for the State's fee-for-service and managed care samples are combined into an overall error rate at the State's program level, the estimate should meet or exceed the precision requirements specified for the program level estimate.

Section 431.974 Basic Elements of PERM

States would estimate improper Medicaid and SCHIP payments using the PERM methodology and report error rates to the Secretary annually. We would use the State level estimates to produce estimates of improper payments for both Medicaid and SCHIP at the national level. All States would use the State findings to address error causes that result in improper payments in their Medicaid and SCHIP programs in order to reduce the rate of improper payments in those programs.

Section 431.978 Sampling Procedures

1. Universe of Medicaid Claims

The Medicaid claims universe will consist of all Medicaid fee-for-service (FFS) adjudicated claims/line items paid to providers, insurers, and managed care organizations and that were denied for payment to providers, insurers, and managed care organizations in which the State claimed title XIX matching Federal funds. The universe includes all monthly managed care capitation payments made to health care organizations under a Medicaid managed care plan or a premium payment made to an insurer on behalf of a Medicaid beneficiary. Because we are reviewing only claims submitted by providers, insurers, and managed care organizations for which a decision to pay or deny was made by Medicaid or SCHIP, the universe would not include any non-claims-based payments or claims returned to providers because of submission errors. Examples of non-claims-based payments to providers are disproportionate share payments and aggregate cost settlement payments.

2. Universe of SCHIP Claims

The SCHIP claims universe consists of all fee-for-service SCHIP adjudicated claims/line items paid to providers and that were denied for payment for which the State claimed SCHIP enhanced Federal funding under title XXI, along with all capitation payments made to health care organizations, or premium payments to insurers on behalf of SCHIP recipients.

For fee-for-service SCHIP programs that are Medicaid Expansion programs, the SCHIP claims for which enhanced Federal funds were either paid or denied under title XXI must be separated from those Medicaid claims either paid or denied with title XIX Medicaid matching funds. These claims would be added to claims or payments from other fee-for-service SCHIP programs the State may offer, with the total constituting the universe for fee-for-service SCHIP.

If the State has both a separate fee-for-service SCHIP program and a Medicaid expansion that is fee-for-service, the claims from both would be pooled for sampling purposes.

3. Treatment of Medicaid and SCHIP Managed Care Claims

Medicaid capitated payments would consist of capitated premium payments for managed care enrollees paid to health care maintenance organizations (HMOs) or providers for which Federal funds were claimed. These payments would be considered as if they were ''claims,'' similar to fee-for-service claims, for the purpose of forming the sampling universe for Medicaid.

SCHIP capitated payments and premium payments to insurers for both Medicaid expansions and separate child health programs are also considered as if they were ''claims,'' similar to fee-for-service claims, for the purpose of forming the sampling universe for SCHIP.

We do not consider monthly management fees paid to primary care physicians under a primary care case management program as capitation payments. Those payments, however, should be considered as fee-for-service claims for the purpose of estimating improper payments.

4. Time Period for Sampling

The sample must be drawn from a universe of all claims paid in the annual period October 1 through September 30. The monthly sample must be drawn from paid and denied claims/line items made through the 12-month sampling period as estimated to result in approximately the same number of claims to be reviewed each month. We anticipate each State will have an annual sample size ranging from 800–1200 claims for each program. The State-specific estimates of improper payments would be used to calculate the national estimate for the Federal fiscal year. States must submit a sampling plan to CMS for approval 30 days before the beginning of the sample period. CMS will respond to the States' sampling plan submittals in a timely manner. The State must receive approval for a plan before it can be implemented. If an approved plan is unchanged from a previous sampling period, the State is not required to resubmit the plan for approval. However, once the basic structure of the sample process is approved and implemented, all States are required at the beginning of each sample period to make the necessary updates and/or adjustments due to fluctuations in the universe as enrollment numbers change that result in the appropriate sample size. States are not required to submit these minor plan updates/adjustments to CMS for approval before implementation.

5. Sample Sizes

For the Medicaid and SCHIP program, the sample size would be drawn to obtain an estimate of the payment error rate that is within +/−3 percentage points of the true population payment error rate, with 95 percent confidence for each of the two programs. However, if the State has both a fee-for-service and a managed care component to its Medicaid or SCHIP programs, a sample stratified between the fee-for-service and managed care components must be drawn for each program. To contain costs, however, the required minimum precision levels for the samples at the component level are reduced. If both a fee-for-service and a managed care sample are drawn for Medicaid or for SCHIP, the fee-for-service estimate and the managed care estimate may, individually, satisfy a lower precision requirement. Specifically, if both a fee-for-service and a managed care sample are drawn for Medicaid or for SCHIP, the sample size of each component individually should be sufficient to achieve a precision level of +/−4 percentage points of the true error rate for the fee-for-service or managed care population, at a confidence level of 90 percent. The separate component level estimates will then be combined to produce a single program level estimate for Medicaid and for SCHIP. Regardless of the required minimum precision requirements at the component level, samples' sizes must be sufficient at the fee-for-service and/or managed care component level when combined to meet Medicaid and SCHIP program level precision requirements. The State will report estimates for both the Medicaid and SCHIP program levels and the FFS and managed care component levels.

Section 431.982 Review Procedures for Fee-for-Service Claims

States sometimes make a correction or ''adjustment'' to a claim to correct an inaccuracy in the original claim payment. These adjustments could be made to correct the billing amount, coding, or other items. In reviewing claims, an adjustment to any claim that affects the payment amount would be reviewed if the adjustment occurred within 60 calendar days after the payment adjudication date. Adjustments to claims before to 60 days of the payment adjudication date would not be reviewed nor would claims adjustments be sampled as a separate sample unit.

In § 431.982, we propose that the review for FFS claims would differ slightly from those of capitated claims or premium payments. The following describes the review procedures for fee-for-service claims. The review would consist of processing validation, eligibility, and medical review.

1. Processing Validation

Each line item would be reviewed to validate that it was processed correctly, based on the information that is on the claim. At the minimum, review the claim to determine if it is:

- A duplicate item (claim);
- A non-covered service;
- A service covered by an HMO (that is, beneficiary is enrolled in a managed care organization that should have covered the service);
- Subject to third party liability payment;
- An invalid price;
- A logic edit (for example, incompatibility between gender and procedure); or
- Data entry (clerical) errors.

2. Eligibility Reviews

The eligibility review documents that the beneficiary was eligible for Medicaid or SCHIP at the time the service was received through case record review and field investigation. During the case record review, specific facts are collected about the circumstances of the beneficiary. The field investigation is required to verify the information. The determination of beneficiary eligibility is accomplished by applying the State's Medicaid or SCHIP eligibility policies in effect as of

the month the service was received (or the date of service in States that do not provide full month coverage). To determine if the beneficiary was eligible at the time of service, the reviewer would verify categorical (for example, aged, blind, disabled, minor child) and financial eligibility (for example, income, resources) through a desk review of the case record that documents eligibility at the time of service and would verify appropriate, outdated, or missing elements of eligibility through documentation, data matches such as the Income and Eligibility Verification System, and third party sources, for example, bank records, employer's wage verification, landlords. A face-to-face interview with the beneficiary is optional but must be conducted for any claim where eligibility at the date of service could not be verified through the desk review and field investigation.

The eligibility verification review would generally follow the procedures established by Medicaid Eligibility Quality Control (MEQC) [§ 431.812 (e)(1) through (e)(4)] except that States must not apply the administrative period. The administrative period is a timeframe under the MEQC program that provides a reasonable period of time for States to reflect changes in the beneficiary's circumstances without an error being cited. The administrative period is the sample month and month before the sample month. When an eligibility error occurs during this time because the beneficiary's circumstances changed (for example, income increased), no eligibility error exists (as long as the case would otherwise be eligible except for this error) because the agency did not have enough time to react to the change and correct the case. We propose to exclude the administrative period in the PERM regulation because it is resource-intensive to review eligibility for both months to determine if the error occurred during that time and that the change in circumstances is the sole reason for the error. We also believe that the intent of the PERM program is to focus on eligibility only at the time the service was received. Therefore, under the PERM rule, the month the service was received is the only month that States would review beneficiary eligibility and the administrative period would not apply.

Medicaid law at section 1902(a)(10)(A)(i)(I) of the Act requires States to make medical assistance available to individuals receiving aid or assistance under title XVI. Under section 1634 of the Act, the Social Security Administration (SSA) may enter into an agreement with any State under which the SSA will determine the Medicaid eligibility of Supplemental Security Income (SSI) cash recipient cases. In a State with such an agreement with the SSA, the State must verify Medicaid eligibility by confirming, through the State Data Exchange, that the beneficiary was an SSI recipient for the month the Medicaid service was provided.

Eligibility reviews would determine that the beneficiary was eligible for Medicaid in the month the sampled service was provided (or on the date of service in States that do not provide full-month coverage). Eligibility reviews would also be conducted for the SCHIP sample in the same manner the reviews are conducted for the Medicaid sample. Individual cases found with an error that could affect eligibility should be reported to the appropriate unit for action.

3. Medical Review

We propose that medical record requests to providers via mail are sufficient. At the minimum, the medical review would include review of—

- The guidelines and policy related to the claim;
- Medical record documentation;
- Medical necessity; and
- Coding accuracy.

Section 431.986 Review for Capitated Payments and Premium Payments

1. Data Processing

Each capitation payment and premium payment would be Reviewed to validate that it was processed correctly. The review would include the following:

- Data entry error.
- Invalid pricing.
- Duplicate item (claim).

Moreover, if the plan includes a capitation payment or premium that varies depending upon the characteristics of the recipient (risk-adjusted payments, for example) the review must determine that the precise capitated payment or premium payment was accurate for that recipient. In some cases, this may require some clinical expertise.

2. Eligibility Review

In § 431.986, we propose that the eligibility review of recipients on whose behalf a capitated payment or premium was paid is the same as that for recipients for fee-for-service claims. That is, the State would verify that the beneficiary was eligible for Medicaid or SCHIP, as appropriate, in the month the service was received (or the date of service in States that do not provide full month coverage) by verifying that the beneficiary met the categorical and financial eligibility requirements according to the State's eligibility policies in effect in the month in which the service was received. In addition, however, the review must determine if the recipient was eligible and actually enrolled for the particular health care plan for which the premium was made.

3. Medical Review

Unlike fee-for-service claims, there is no explicit medical review of a particular service.

Reporting and Recordkeeping Requirements and Recoveries

Section 483.990 Reporting Requirements and Recordkeeping

In § 483.990, we propose that States must report, annually, improper payment estimates to the Secretary by June 1, 9 months after the previous October 1 through September 30 sampling period. States must also submit an Annual PERM Report to CMS by June 1 following the previously completed sampling period. The report must list the errors which the State identified in its review (and identify which amounts were overpayments, underpayments, and payments for ineligible individuals/services), explain the causes of the errors and explain the actions it will take to address those errors and to reduce the level of improper payments.

We also propose that, for purposes of this regulation, States retain documentation to support the testing and statistical calculation of the Medicaid and SCHIP PERM error rate estimates, particularly statistical, fiscal, and other records necessary for reporting and accountability as required by the Secretary. For those records that pertain to the PERM program, we propose that States maintain and permit ready access and use of those records, including but not limited to the eligibility case records, review materials, working papers, reports, sampling plans, and statistical data and all other documentation needed to support the State's Medicaid and SCHIP error rates. These records may be used for Federal re-review or audits by the Department of Health and Human Services (DHHS), HHS Office of the Inspector General and the Government Accountability Office. Similarly, for purposes of this regulation, we propose that States retain these records for 3 years from the date of submission of a final expenditure report or beyond 3

years if audit findings have not been resolved.

Section 431.1002 Recoveries

OMB guidance for implementing the Improper Payments Information Act requires us to include in our report to the Congress a discussion regarding recovery of misspent funds. We propose to include a provision that States would return to us within 60 days the Federal share identified as overpayments actually identified in the sampled claims reviewed for data processing and medical necessity in accordance with 42 CFR part 433, subpart F. Payments based on erroneous eligibility determinations are exempt from this provision because these payments are addressed under section 1903(u) of Act.

Subchapter D—State Children's Health Insurance Programs (SCHIP)

Part 457—Allotments and Grants to States

Subpart G—Strategic Planning, Reporting, and Evaluation

Section 457.720 State Plan Requirements: State Assurance Regarding Data Collection, Records, and Reports

We propose to revise § 457.720 to make a conforming change to cross-reference § 431.950 through § 431.1002 in order to make it easy for States to find the rules governing the PERM program.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements:

Section 431.962 State Plan Requirements

In summary, § 431.962 requires State plans to provide for the submission of payment error rate estimates for both Medicaid and SCHIP to the Secretary.

The burden associated with this requirement would be 51 (the number of States and the District of Columbia that need to amend their State Plan to include this requirement) × 1 (the hours it would take for them to amend the plan), or 51 hours annually.

The information collection for amending State Plans is currently approved under OMB number 0938–0193.

This assumes that all States would conduct PERM as required by the regulation. Therefore, the State plan would be amended in all 50 States plus the District of Columbia. Amending the State plan requires 1 hour in order for the State to sign and submit an additional form with their plan that outlines what the State is required to do under the PERM regulation; the form does not require preparation by State.

Section 431.970 Payment Error Rate

Section 431.970(a) requires States to submit payment error rates for both Medicaid and SCHIP annually.

The burden associated with this requirement would be the time it would take each State to gather and calculate the data using the PERM methodology, for both Medicaid and SCHIP, and then report their payment error rates findings to the Secretary.

It is estimated that it would take 24,000 hours per State to comply with this requirement, or a total of 1,224,000 hours (# of States × hours/State). This assumes that during any given Federal fiscal year beginning with FY 2006, a maximum of 50 States plus the District of Columbia will be conducting PERM as required by this proposed rule. This further assumes that each of the 51 participating States will be conducting PERM on a sample of approximately 2,000 paid/denied claims/line items. Each sampled claim reviewed under PERM generally requires 12 hours as follows: 10 hours for eligibility verification case review, 1 hour for medical records review and processing validation, and 1 hour of administrative/professional time. Therefore, 2,000 claims (×) 12 hours per claim equals 24,000 hours per State (×) 51 States per year equals 1,224,000 total hours per year.

Section 431.978 Sampling Procedure

Section 431.978 requires States to submit initial sampling plans for CMS for approval 30 days before implementation. The burden associated with this requirement is the time it takes each State to develop a sampling plan. Based on the cost efficiency study from the second year of the PAM research and demonstration project, we estimate that it will take approximately 84 hours to develop a sampling plan for sampling a total average of 1,000 to 2,000 claims. The total burden is 84 hours per program = 168 per State (×) 51 States = 8,568 hours. If a plan is unchanged from a previous period, the State is not required to resubmit the plan for approval. Once States have established an approved sampling plan, they may need to make minor adjustments to maintain the proper sample size but do not need to obtain CMS approval for these minor changes.

Section 431.990 Reporting Requirements and Recordkeeping

Section 431.990(a) requires States to annually report the total estimated improper payments and payment error rates to the Secretary.

The burden associated with this requirement is the time it takes each State to annually gather the total estimated improper payments and payment error rates and report this to the Secretary by June 1. The burden associated with this requirement is included in the burden under the payment error rate requirements in § 431.970.

Section 431.990(b) requires States to submit an Annual PERM Report to CMS.

The burden associated with this is the time it will take for the States to prepare the report that addresses actions to be taken to address error causes and that are designed to reduce payment error and submit this report to CMS. It is estimated that it will take a State 40 hours to prepare and submit the report to CMS. The burden associated with this requirement would be 51 (the number of States and the District of Columbia) × 40 hours (the hours it would take for each State to prepare the report) or 2040 hours. The cost associated with preparing the Annual PERM Report for each State is $1040. That amount is based on a State employee hourly wage figure computed at 80 percent of a GS 12/Step 1 salary plus 10 percent retirement/insurance as follows: $60,638 (GS 12) + $6063 (10 percent retirement/insurance) × 80 percent = $53,360/2080 hours per year = $26 per hour (rounded). $26 per hour × 40 hours = $1040 51 States × $1040 = $53,040 total annual State cost (applicable Federal match is available).

For purposes of maintenance of records, we propose that States retain

documentation to support the testing and statistical calculation of the Medicaid and SCHIP error rate estimates, particularly statistical, fiscal, and other records that pertain to the PERM program as are necessary for reporting and accountability as required by the Secretary. For those records that pertain to the PERM program, we propose that States maintain and permit ready access and use of all official records, including but not limited to the eligibility case records, review materials, working papers, reports, sampling plans, and statistical data and all other documentation needed to support the State's Medicaid and SCHIP error rates. These records may be used for Federal re-review or audits by the DHHS, HHS Office of the Inspector General and the Government Accountability Office. Since these regulatory requirements are similar to longstanding record retention requirements in Medicaid (refer to 44 FR 17931, March 23, 1979, as amended at 51 FR 7210, February 28, 1986) and the records and working papers that States will use already exist to a large extent, *e.g.*, Medicaid and SCHIP eligibility case records used for eligibility reviews and working papers already available through the MEQC program, and that States' systems of recordkeeping have become technologically sophisticated through computer programming, we estimate that this recordkeeping requirement under the PERM program does not present any additional burden on States. Also, this requirement is similar to current SCHIP regulations at § 457.226 that require States to maintain an accounting system and supporting fiscal records to ensure that claims for Federal funds are in accord with applicable Federal requirements and to retain records for 3 years from the date of submission of a final expenditure report or beyond 3 years if audit findings have not been resolved. Since States are already required to maintain records under SCHIP, we estimate that this requirement for the PERM program does not present an additional burden to States.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Centers for Medicare & Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Attn: Melissa Musotto, Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Christopher Martin, CMS Desk Officer.

Comments submitted to OMB may also be e-mailed to the following address: e-mail: *Christopher_Martin@omb.eop.gov*; or faxed to OMB at (202) 395–6974.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Statement

[If you choose to comment on issues in this section, please include the caption ''Regulatory Impact Statement'' at the beginning of your comments.]

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if 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 major rules with economically significant effects ($100 million or more in any 1 year).

Based upon the cost efficiency study from States participating in the second year of the PAM research and demonstration project from which the PERM methodology was developed and pilot tested, we estimate that the average cost, based on an average of 1,000 claims, would be as follows: $570 per eligibility review, $300 per claims review (data processing and medical review), and $155 standard administrative cost. Based on these figures, we estimate that the total annual State and Federal costs to conduct PERM would range from $1 to $2 million. Therefore, we have determined that the proposed rule would not exceed the annual $100 million threshold impact criterion. Therefore, an impact analysis is not required under E.O. 12866.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. The proposed rule would require State governments to estimate payment error in Medicaid and SCHIP using the PERM methodology. State governments are not defined as small entities in the RFA. Therefore, an impact analysis is not required under the RFA.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

The proposed rule applies to State governments and does not apply to small rural hospitals. Therefore, an impact analysis is not required under section 1102(b) of the Social Security Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million.

As discussed previously, based upon preliminary cost estimates from State participation in the second year of the PAM research and demonstration project from which the PERM methodology was developed and pilot tested, we have estimated that the total computable (State and Federal) cost will range from $1 to $2 million to operate PERM annually. Therefore, we have determined that the proposed rule would not result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector that exceed the annual $110 million threshold impact criterion. Therefore, an impact analysis is not required under

section 202 of the Unfunded Mandates Reform Act of 1995.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

The proposed rule would require States to produce payment error rate estimates using the PERM methodology. The two major cost factors for each State implementing the PERM methodology are the medical review of the sampled claims and the eligibility verification of the beneficiaries associated with the sampled claims. States must conduct medical review of the sampled claims with participation from nurse level staff. States must also conduct field visits to obtain documentation and interview beneficiaries, if necessary, in order to verify eligibility. The labor costs and travel costs associated with these staff would vary by State. These costs are also driven by the size of the claims sample that would vary by State, which we estimate to be 800 to 1,200 per program. Other less significant expenses incurred by States include both the cost of program administration and the cost of professional staff to draw the sample, estimate the payment error rate, and produce reports. We estimate the total computable (State and Federal) cost, based on an average of 1,000 claims, will be an average of $870,000 to conduct the reviews and $155,000 in administrative expenses for a total range of $1 to $2 million.

Preliminary cost estimates were based on a cost analysis of States' participating in the research and demonstration project from which the PERM methodology was developed and pilot tested. From this analysis, we estimate that States should be able to conduct PERM annually for between $1 to $2 million, with most States at the lower end of that range, which includes the applicable Medicaid and SCHIP Federal match.

This proposed rule is intended to produce savings for the States. These savings would result from actions taken by the States to address error causes identified in the claims processing system and other program areas, as appropriate. These savings cannot be estimated until after each State has conducted PERM for successive years in order that reductions in payment error rates can be reported and potential savings to the State can be estimated.

B. Anticipated Effects

The State may request that medical providers supply medical records or other similar documentation that verify the provision of medical services to a beneficiary, for a paid or denied Medicaid or SCHIP claim that was sampled and reviewed for payment error as part of PERM. This action would not have a significant cost impact on medical providers.

C. Alternatives Considered

The PERM methodology has been designed to promote savings for the Medicaid and SCHIP programs by reducing payment error. We would like to solicit comments on how to implement the PERM methodology at the State level in a manner that ensures independence and minimizes conflicts of interest.

The PERM methodology has been developed and pilot tested with extensive collaboration from participating States during a 3-year research and demonstration project. Alternatives were considered and pilot tested during the research and demonstration project period. We considered having CMS or a contractor use the PERM methodology to construct national improper payment estimates annually for Medicaid and SCHIP. We rejected this approach because no single Federal entity or contractor is expert in the unique eligibility, service, coverage, and reimbursement policies of every State. Also, in State-administered programs like Medicaid and SCHIP, the State itself must identify error causes, based on PERM reviews, and take actions to reduce the level of improper payments.

We considered a process for estimating improper payments in both Medicaid and SCHIP through a rotation process whereby each State would participate in a sample and review of claims for each program once every 3 years. This was rejected because of concern that excluding some States from the sampling frame in a given year may bias the national estimate.

Randomly sampling States each year to produce a national estimate was also considered. It was rejected because it would not provide an estimate for each State on a systematic basis. Consequently, CMS would not be able to routinely monitor individual State progress and provide technical assistance to achieve error reduction.

The draft final specifications of the methodology have been developed in collaboration with the participating States. The methodology has also been designed to minimize costs to the States and to be in compliance with the requirements of the Improper Payments Information Act of 2002 and the related guidance from the Office of Management and Budget.

In accordance with E.O. 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 431

Grant programs—health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 457

Administrative practice and procedure, Grant programs—health, Health insurance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Part 431 is amended by adding new subpart Q to read as set forth below:

Subpart Q—Requirements for Estimating Improper Payments in Medicaid and SCHIP

Sec.
431.950 Purpose.

Review and Sample Procedures for Estimating Improper Payments in Medicaid and SCHIP

431.954 Basis and scope.
431.958 Definitions.
431.962 State plan requirements.
431.966 Protection of recipient rights.
431.970 Payment error rate.
431.974 Basic elements of PERM.
431.978 Sampling procedures.
431.982 Review procedures.
431.986 Review for capitated payments and premium payments.

Reporting and Recordkeeping Requirements and Recoveries

431.990 Reporting requirements and recordkeeping.
431.1002 Recoveries.

Subpart Q—Requirements for Estimating Improper Payments in Medicaid and SCHIP

§ 431.950 Purpose.

This subpart requires States to annually estimate total improper payments and produce payment error rates in Medicaid and SCHIP using the Payment Error Rate Measurement (PERM) methodology and to provide these estimates to the Secretary by June 1 for the purpose of HHS developing a

national estimate of improper payments in those programs. In conducting medical records reviews and eligibility reviews, States must adhere to the requirements of protection of recipients' rights including those in § 435.901 and § 435.902 of this chapter.

Review and Sample Procedures for Estimating Improper Payments in Medicaid and SCHIP

§ 431.954 Basis and scope.

(a) *Basis.* The statutory bases for this subpart are sections 1102, 1902(a)(6), and 2107(b)(1) of the Act, which contain the Secretary's general rulemaking authority and obligate States to provide information, as the Secretary may require, to monitor program performance. In addition, this rule supports the Improper Payments Information Act of 2002, which requires Federal agencies to annually review and identify those programs and activities that may be susceptible to significant erroneous payments, estimate the amount of improper payments, and report those estimates to the Congress and, if necessary, submit a report on actions the agency is taking to reduce erroneous payments.

(b) *Scope.* This subpart requires States under the statutory provisions in paragraph (a) of this section to estimate improper payments using the PERM methodology annually in the Medicaid and SCHIP programs. The States are further required to submit payment error rates annually to the Secretary for the purpose of calculating a national level payment error rate.

§ 431.958 Definitions and use of terms.

Adjustments to claims means that adjustments to claims are not included in the universe from which sampled claims/line items are drawn. However, all adjustments to a sampled claim that occur within 60 calendar days after the payment adjudication date would be included in the review of the sampled claim.

Improper payment means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, any payment for services not received, and any payment that does not account for credits or applicable discounts.

Payment means any payment to a provider, insurer, or managed care organization for a Medicaid or SCHIP recipient for which there is Medicaid or SCHIP Federal financial participation.

Payment error rate means an annual estimate of improper payments made under Medicaid and SCHIP equal to the sum of the overpayments (including payments to ineligible recipients) and underpayments, that is, the absolute value, expressed as a percentage of total payments made over the sampling period.

Payment error rate change means the percentage point change in the payment error rate from 1 year to the next year.

PERM stands for Payment Error Rate Measurement.

Precision level means an estimate that is within +/−3 percentage points of the true population payment error rate with 95 percent confidence for the Medicaid program and for the SCHIP program, and within +/−4 percentage points of the true population payment error rate with 90 percent confidence for each fee-for-service component and managed care component in the Medicaid program and the SCHIP program. Sample sizes for each component should be sufficient to achieve the required precision level for Medicaid and SCHIP when the components are combined into a program estimate. If the State's Medicaid or SCHIP program consists of only one component, the precision level as defined for the Medicaid and SCHIP programs applies.

Sampling period means the sampling period is October 1 through September 30.

Sampling unit means the individually priced service line item drawn from the universe, whether paid or denied. On claims with multiple line items that are not individually priced, the claim is the sampling unit. Capitation payments or premium payments are considered line items for the purpose of sampling, reviewing, and calculating an error rate.

Total estimated improper payments means the estimate of the combined total amount of Federal and State improper payments as projected to the universe.

Universe means the entirety of all paid and denied claims/line items submitted by providers, insurers, and managed care organizations that were received and processed for Medicaid or SCHIP payment during the sampling period. The Medicaid universe consists of all claims/line items, including capitated payments or premium payments, for which the State claimed title XIX Federal funds or would have claimed title XIX Federal funds if the claim had not been denied. The SCHIP universe consists of all claims/line items, including capitated payments or premium payments, whether made under a Medicaid expansion or separate child health program for which the State claimed title XXI Federal funds or would have claimed title XXI Federal funds if the claim had not been denied. Provider, insurer, and managed care organization claims that were adjudicated but for which no payment was made are included in the appropriate universe (Medicaid or SCHIP). Claims that cannot be processed and adjudicated for payment are not included in the universe. Within Medicaid and within SCHIP, fee-for-service payments and managed care payments will be considered separately for the purpose of sampling.

§ 431.962 State plan requirements.

The State plan must—

(a) Provide for estimating the payment error rate in both Medicaid and SCHIP and the respective fee-for-service and managed care components, as applicable; and

(b) Submit payment error rate estimates in both Medicaid and SCHIP to the Secretary by June 1 annually for the purpose of HHS reporting a national payment error rate for these programs.

§ 431.966 Protection of recipient rights.

State collection and review of documentation for the purpose of conducting payment error rate measurement must be done in a manner that is consistent with the rights of recipients including those required under § 435.901 and § 435.902.

§ 431.970 Payment error rate.

(a) States must submit to the Secretary payment error rates for both Medicaid and SCHIP annually.

(b) Payment error rates are estimated based upon the documentation review of a random monthly sample of paid and denied claims/line items drawn from the universe of claims from each program.

(c) The payment error rate estimate must meet the required precision level, as defined in § 431.958, in each program and component.

§ 431.974 Basic elements of PERM.

(a) States must estimate improper Medicaid and SCHIP payments through a review of randomly selected claims.

(b) States must take actions in their Medicaid and SCHIP programs to address causes of errors identified through the claims reviews.

(c) States must submit an Annual PERM Report to CMS by June 1 following the sample year. The Annual PERM Report must detail the causes of error (identified through the PERM claims reviews) that result in improper

payments and specify actions to be taken to address the error causes and to reduce the level of improper payments.

§ 431.978 Sampling procedures.

(a) States must draw a statistically valid random sample from the Medicaid universe and the SCHIP universe, as defined in § 431.958, that is of sufficient size to ensure that it meets the required precision level for each program and component as defined in 431.958.

(b) The sample must be drawn monthly throughout the annual sampling period.

(c) For a State with both a fee-for-service and managed care component to its Medicaid and/or SCHIP program, a sample stratified between these components must be drawn for each program. Component sample sizes must be sufficient, when combined, to meet the Medicaid and SCHIP program level precision requirements.

(d) States must submit a sampling plan to CMS for approval 30 days before the beginning of the sample period and must receive approval of the plan before implementation. If a plan is unchanged from a previous period, the State is not required to resubmit the plan for approval.

(e) States must make minor updates and adjustments to the plan due to fluctuations in the universe as enrollment numbers change that results in appropriate sample sizes. States are not required to obtain CMS approval for these minor changes.

§ 431.982 Review procedures.

(a) *Fee-for-service line items.* The review of fee-for-service line items, including adjustments to claims that occur within 60 calendar days after the payment adjudication date, must consist of three parts:

(1) Processing Validation. At minimum, review the claim to determine if it is—

(i) A duplicate item (claim);

(ii) A non-covered service;

(iii) A service covered by an HMO (that is, the beneficiary is enrolled in a managed care organization that should have covered the service);

(iv) Subject to third party liability payment;

(v) An invalid price;

(vi) A logic edit (for example, incompatibility between gender and procedure); or

(vii) A data entry (clerical) error.

(2) *Eligibility reviews.* The eligibility reviews for States are as follows:

(i) In a State that confers Medicaid or SCHIP eligibility on a month-to-month basis, the review must verify that the beneficiary was eligible for the Medicaid or SCHIP program during the month the service was received by applying the State's policies and procedures in effect during that month.

(ii) In a State with day-specific Medicaid or SCHIP eligibility, the review must verify that the beneficiary was eligible for the Medicaid or SCHIP program on the date the service was received by applying the State's policies and procedures in effect on that date.

(iii) The eligibility verification review must follow the procedures established by Medicaid Eligibility Quality Control, as set forth in § 431.812(e)(1) through (e)(4), except that States must not apply the administrative period. In-person interviews are optional unless verification of eligibility cannot be made based on the case record review and appropriate documentation or collateral contacts.

(iv) In States with agreements with the Social Security Administration under section 1634 of the Act, the State must verify Medicaid eligibility by confirming, through the State Data Exchange, that the beneficiary was a Supplemental Security Income (SSI) cash recipient for the month or the date the Medicaid service was received.

(v) States must take appropriate action on individual error cases that could affect eligibility.

(3) *Medical review.* States may request medical records by mail. The medical review must, at a minimum, include review of—

(i) The guidelines and policy related to the claim;

(ii) Medical record documentation;

(iii) Medical necessity; and

(iv) Coding accuracy.

(b) [Reserved]

§ 431.986 Review for capitated payments and premium payments.

(a) The eligibility review of recipients on whose behalf a capitated payment or premium was paid is the same as that for recipients for fee-for-service claims.

(b) The review must verify that the recipient was eligible for and actually enrolled in the particular health care plan for which the premium or capitation payment was made. If the plan includes a capitation payment or premium that varies depending upon the characteristics of the recipient, the review must verify that the precise capitated payment or premium payment was accurate for that recipient.

(c) *Processing validation.* Each line item would be reviewed to validate that it was processed correctly, based on the information that is on the claim. At a minimum, the claim is reviewed to determine if it is—

(1) A duplicate item (claim);

(2) A non-covered service;

(3) A service covered by an HMO (that is, the beneficiary is enrolled in a managed care organization that should have covered the service);

(4) Subject to third party liability payment;

(5) An invalid price;

(6) A logic edit (for example, incompatibility between gender and procedure); or

(7) A data entry (clerical error).

(d) Medical records review is not required as part of the review of capitated payments.

(e) The claims review includes adjustments to claims that occur within 60 calendar days after the payment adjudication date.

Reporting and Recordkeeping Requirements and Recoveries

§ 431.990 Reporting requirements and recordkeeping.

(a) States must annually report total estimated improper payments and payment error rates to the Secretary by June 1 following the close of the sampling period.

(b) States must submit an Annual PERM Report to CMS by June 1 following the close of the sample period. The report must list the errors which the State identified in its review (and identify which amounts were overpayments, underpayments, and payments for ineligible individuals/services), explain the causes of the errors and explain the actions it will take to address those errors and to reduce the level of improper payments.

(c) States must retain documentation to support the testing and statistical calculation of the Medicaid and SCHIP error rate estimates, particularly statistical, fiscal, and other records necessary for reporting and accountability as required by the Secretary.

(d) States must maintain and permit ready access and use of all official records used for purposes of the PERM Report, including but not limited to the eligibility case records, review materials, working papers, reports, sampling plans, and statistical data and all other documentation needed to support the State's Medicaid and SCHIP error rates. These records may be used for Federal re-review or audits by the Department of Health and Human Services, HHS Office of the Inspector General and the Government Accountability Office.

(e) States must retain these records for 3 years from the date of submission of a final expenditure report or beyond 3 years if audit findings have not been resolved.

§ 431.1002 Recoveries.

States must return to CMS the Federal share of overpayments identified in the sampled claims reviewed for data processing and medical necessity within 60 days in accordance with section 1903(d)(2) of the Act and related regulations at part 433, subpart F of this chapter. Payments based on erroneous eligibility determinations are exempt from this provision because they are addressed under section 1903(u) of the Act and related regulations at part 431, subpart P of this chapter.

SUBCHAPTER D—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

PART 457—ALLOTMENTS AND GRANTS TO STATES

Subpart G—Strategic Planning, Reporting, and Evaluation

3. The authority citation for part 457 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 457.720 is revised to read as follows:

§ 457.720 State plan requirement: State assurance regarding data collection, records, and report.

A State plan must include an assurance that the State collects data, maintains records, and furnishes reports to the Secretary, at the times and in the standardized format the Secretary may require to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under title XXI. This includes collection of data and reporting as required under § 431.950 through § 431.1002 of this chapter.

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Insurance Program)

Dated: January 8, 2004.

Dennis G. Smith,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: May 20, 2004.

Tommy G. Thompson,

Secretary.

[FR Doc. 04–19603 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 2 and 101

[FCC 04–78; ET Docket No. 95–183; RM–8553; PP Docket No. 93–253]

37.0–38.6 GHz and 38.6–40.0 GHz Bands—Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend the rules for fixed, point-to-point microwave service in the 38.6–40.0 GHz (''39 GHz'') band, and to adopt a conforming set of new rules for the virtually unused 37.0–38.6 GHz (''37 GHz'') band in order to allow for the expansion of 39 GHz type service. In this Third Notice of Propose Rule Making, (Third NPRM), we propose service rules for the 37 GHz and also for the 42.0–42.5 GHz (''42 GHz'') (''37/42 GHz'') bands that would substantially conform to the rules adopted for the 39 GHz band in the *Report and Order and Second Notice of Proposed Rule Making* and the *Second Report and Orde*r in this proceeding. Our goal is to establish a flexible regulatory and licensing framework that would promote seamless deployment of a host of services and technologies in the 37 GHz and 42 GHz bands. We seek to enhance opportunities for deployment of broadband wireless services, foster effective competition, promote innovation and further our efforts for consistent rule application regarding broadband wireless services.

DATES: Comments are due on or before October 26, 2004, and reply comments are due to be filed by November 26, 2004. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before October 26, 2004.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, via the Internet to *Kristy_L. LaLonde@omb.eop.gov*, or via fax at (202) 395–5167.

FOR FURTHER INFORMATION CONTACT: Charles Oliver (legal) or Michael Pollak (engineering), Wireless Telecommunications Bureau, (202) 418–2487. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at (202) 418–0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third NPRM, released on May 5, 2004, (FCC 04–78). The full text of the Third NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th St., SW., Washington DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Best Copy and Printing Inc., (BCPI), Portals II, 445 12th St., SW., Room CY–B402, Washington DC. Additionally, the complete item is available on the Commission's Web site at *http://www.fcc.gov/wtb*.

I. Summary of Notice of Proposed Rulemaking

1. In the Notice of Proposed Rule Making and Order that initiated the above-captioned proceeding in 1995, we proposed to amend the rules for fixed, point-to-point microwave service in the 38.6–40.0 GHz (''39 GHz'') band, and to adopt a conforming set of new rules for the virtually unused 37.0–38.6 GHz (''37 GHz'') band in order to allow for the expansion of 39 GHz-type service. In this Third NPRM, we propose service rules for the 37 GHz and also for the 42.0–42.5 GHz (''42 GHz'') (''37/42 GHz'') bands that would substantially conform to the rules adopted for the 39 GHz band in the *Report and Order and Second Notice of Proposed Rule Making* and the *Second Report and Order* in this proceeding. We recognize, however, that conditions have changed considerably over the past few years, and we are willing to consider alternatives if commenters demonstrate that a different regulatory framework would be more appropriate for the 37/42 GHz bands. Our goal is to establish a flexible regulatory and licensing framework that would promote seamless deployment of a host of services and technologies in the 37 GHz and 42 GHz bands. We seek to enhance opportunities for deployment of broadband wireless services, foster effective competition, promote innovation and further our efforts for consistent rule application regarding broadband wireless services.

2. Significant changes in spectrum allocations, technology, and market conditions have occurred since the adoption of the 39 GHz rules and auction. Consequently, we invite comments on all of the unresolved issues in this proceeding. We do not seek comment on issues that were decided in the allocation item in the *Second Report and Order*, 63 FR 3075, (January 21, 1998), such as the soft segmentation of the frequency bands for satellite and terrestrial services. Accordingly, we seek comment on proposed 37/42 GHz band service rules that are affected by these proposed changes, and in one case we propose to apply these rules to the 39 GHz band as well. Specifically:

- We propose to license the 37/42 GHz bands on a geographic basis using Economic Areas (EAs), consistent with the licensing scheme adopted for the 39 GHz band, but we invite comment on alternative approaches as well. Specifically, we invite comment on the possibility of authorizing service using a first-in-time site registration process.
- We propose to permit point-to-point, point-to-multipoint, and future mobile operations.
- We propose to adopt a ''substantial service'' build-out requirement if the band is licensed using EA licenses, but we invite comment on alternative build-out requirements if we adopt a different licensing scheme.
- We propose technical rules designed to provide licensees with operational flexibility.
- We propose to permit 37/42 GHz band licensees to partition and disaggregate spectrum if the band is licensed by EAs.
- We seek comment on whether to adopt a channeling plan for the 37/42 GHz bands, and, if so, what plan to propose.
- We propose to require coordination whenever and wherever facilities have optical radio line-of-sight into another licensee's geographic area or registered site license.
- We seek comment on the appropriate coordination method to employ between adjacent licensees and with the Federal government. We propose to apply these changes to the 39 GHz band as well as the 37/42 GHz bands.
- If we license the bands by EAs when awarding 37/42 GHz licenses, we propose to use the competitive bidding procedures set out in part 1, subpart Q of our rules.

Procedural Matters

Paperwork Reduction Analysis

A. Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (''RFA'') of 1980, the Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA''), with respect to this *Third Notice of Proposed Rule Making*, of the possible significant economic impact on small entities of the policies and rules proposed in this document. The IRFA is set out further. We request written public comment on the IRFA. Comments must be filed in accordance with the same filing deadlines as comments filed in this rulemaking proceeding and must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

B. Paperwork Reduction Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due October 26, 2004. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0690.

Title: Amendment of the Commission's Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands, Third Notice of Proposed Rulemaking.

Form No.: N/A.

Type of Review: Revision a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, Federal government, and State, local or tribal government.

Number of Respondents: 10,000.

Estimated Time Per Response: .5–11 hours.

Frequency of Response: Every 10 years.

Total Annual Burden: 169,626 hours.

Total Annual Costs: $55,000,000.

Needs and Uses: The Commission proposes to issue geographic area licenses for the 37.0–38.6 GHz band, or in the alternative, seeks comment on the possibility of using a first-come, first-served link-by-link registration approach comparable to the regulations that the Commission recently applied to the *70/80/90 GHz Report and Order*. In that proceeding, the Commission decided to issue non-exclusive nationwide licenses conditioned upon site and path-specific coordination wherein many service providers would engineer their systems to operate in close proximity, without causing mutual interference. In order to facilitate such coordination, the Commission adopted non-interference requirements and required all licensees to register their facilities in a database accessible to other licensees on a first-come, first-served basis. Although the Commission determined not to impose a limit to the number of non-exclusive nationwide licenses, licensees would be required to construct individual links within 12 months after registering them.

C. Ex Parte Presentations

1. For purposes of this permit-but-disclose notice and comment rulemaking proceeding, members of the public are advised that *ex parte* presentations are permitted, provided they are disclosed under the Commission's rules.

D. Comment Dates

1. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 27, 2004, and reply comments on or before October 12, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (''ECFS'') or by filing paper copies.

2. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, *i.e.*, PP Docket No. 93–253, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing

the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

E. Further Information

1. For further information concerning this rulemaking proceeding, contact Charles Oliver (legal) or Michael Pollak (engineering) at (202) 418–2487, TTY (202) 418–7233, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554.

2. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or via e-mail to *bmillin@fcc.gov*. This *Notice of Proposed Rulemaking* can be downloaded at *http://www.fcc.gov/Wireless/Orders/2003/*.

II. Initial Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Third NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this Third NPRM provided in Section IV, (Procedural Matters), of the item. The Commission will send a copy of the Third NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Third NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Third NPRM

5. This rulemaking action is being undertaken to propose a licensing plan, a channeling plan, certain technical rules, and competitive bidding procedures for the 37.0–38.6 and 42.0–42.5 (''37/42'') GHz spectrum bands. Currently, there are no such rules in place for these bands. Our objective is to facilitate spectrum aggregation, equipment development and service planning, and otherwise to create rules that will maximize efficient use of these bands, and that are in the public interest. We note specifically that, as described below, we propose to provide bidding credits to small and very small businesses.

B. Legal Basis for Proposed Rules

6. The proposed action is authorized under Sections 1, 4(i), 7, 301, 303, 308 and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 301, 303, 308, 309(j).

C. Description and Estimate of the Small Entities to Which Rules Will Apply

7. The RFA requires that an initial regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the Agency certifies that ''the rule will not, if promulgated, have a significant impact on a substantial number of small entities. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' This IRFA describes and estimates the number of small entity licensees that may be affected if the proposals in this Third NPRM are adopted.

8. When identifying small entities that could choose to participate in an auction and be affected by our new rules, we provide information describing auctions results, including the number of small entities that are winning bidders. We note, however, that the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily reflect the total number of small entities currently in a particular service. The Commission does not generally require, post-auction, that applicants provide business size information, except in the context of an assignment or transfer of control application where unjust enrichment issues are implicated. Consequently, to assist the Commission in analyzing the total number of potentially affected small entities, we request commenters to estimate the number of small entities that may be affected by any rule changes resulting from this Third NPRM.

National Figures

9. *Small Businesses.* Nationwide, there are a total of 22.4 million small businesses, according to SBA data.

10. *Small Organizations.* Nationwide, there are approximately 1.6 million small organizations.

11. *Small Governmental Jurisdictions.* The term ''small governmental jurisdiction'' is defined as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' As of 1997, there were approximately 87,453 governmental jurisdictions in the United States. This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and of which 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

Wireless Service Providers

12. The SBA has developed a small business size standard for wireless small

businesses within the two separate categories of *Paging* and *Cellular and Other Wireless Telecommunications.* Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. According to Commission data, 1,387 companies reported that they were engaged in the provision of wireless service. Of these 1,387 companies, an estimated 945 have 442 or fewer employees and 586 have more than 1,500 employees. Consequently, the Commission estimates that most wireless service providers are small entities that may be affected by the rules and policies adopted herein.

39 GHz Service

13. The Commission created a special small business size standard for 39 GHz licenses ''an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and polices proposed herein.

D. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

14. Generally, all applicants are required to seek authorizations to construct and operate and to adhere to the technical criteria set out in the final rules. However, this Third NPRM proposes service rules and auction rules for the 37.0–38.6 GHz band and the 42.0–42.5 GHz band (''37/42 GHz bands'') either by a geographic area licensing approach or the first-come, first-served link-by-link registration approach, in order to coordinate spectrum use that will affect reporting, recordkeeping and other compliance requirements. Each of these changes is described below:

15. The Third NPRM proposes to require users in the 37/42 GHz bands to coordinate procedures with the National Telecommunications and Information Administration (NTIA) in negotiations with non-Government and Government stations in the band and that these negotiations would apply the geographic area licensing regulatory framework. However, independent of the licensing approach the Commission chooses, the basic coordination procedures with NTIA will be the same because they are based on a site-by-site method, consistent with Section IV(6) of the Memorandum of Understanding (MOU) between the Commission and NTIA dated January 31, 2003, wherein the Commission and NTIA would maintain current lists of authorized frequency assignments on the ULS and the Government Master File (GMF) and exchange information as appropriate to coordinate spectrum use. Also, the site-based coordination procedures proposed here involve coordination between the Interdepartment Radio Advisory Committee (IRAC), Commission licensees, and Government agencies through the Commission, which represents the non-Government facilities, and the NTIA, which represents the Government agencies. Problems would be referred by the Commission back to its licensees/applicants and by the NTIA to Government agencies for resolution.

16. The Third NPRM proposes to require non-Government operators/licensees in the 37.0–38.6 GHz frequency band to maintain databases of their fixed stations, including sufficient data for other licensees, coordinators, and the Government to make a determination of potential interference. Non-Government licensees would have the option of maintaining their own databases for their facilities or of selecting third-party database managers, frequency coordinators, or other entities to maintain their database of facilities. The database manager would be responsible to the licensee and would share the technical data with the Commission and other database managers as needed for proper coordination, and retain records of the coordination agreements with other parties. All coordination agreements would remain in force in the event the licensee transfers its license, partitions its service area, or disaggregates its spectrum, until new agreements are reached.

17. The Third NPRM proposes to require the non-Government operators/licensees to make available all necessary technical database information to the Commission in a timely and convenient manner sufficient for resolving interference complaints with NTIA in the event of disputes. The Third NPRM also proposes to require non-Government licensees to register their technical data electronically into the ULS for each station in their authorized service areas in order to make available accurate information with Government facilities such as, the date of the initial operating capability of each station, specific information identifying the station locations, technical operating capabilities of the stations, and, if known, whether the station has optical line-of-site to another facility with which it is being coordinated. This site-based information would be entered into the record of the area license in the ULS database by electronically registering notifications to the initial Commission Form 601 using Schedule I, but not more than twelve (12) months before operations are scheduled to begin. The Third NPRM also proposes that notification and response for site-by-site coordination for geographic area licensees requires variations in the general coordination procedures as given in Section 101.103 of our rules. The Third NPRM further proposes that geographic area licensees must select site frequencies within their assignment blocks of spectrum and initiate the coordination process by notifying the other parties with whom they must coordinate and that registrations of licensee sites on Schedule I of Form 601 must include the licensees determination of whether possible optical line-of-site exists to relevant (future) Government facilities. If it is determined that optical line-of-site does not exists, the applicant is required to explain the determination. Coordination involving existing and future Government facilities would require licensees and applicants to ensure that their data is accurately reflected in ULS.

18. The Third NPRM also proposes that licensees would be required to follow existing practices and precedents regarding fees associated with initial licenses, and to file notifications in the ULS to supply the technical information needed to coordinate each station with Government facilities. When revisions to ULS are developed for adding the capability to handle licensees in the 37.0–38.6 GHz band, the capability to collect this additional site-based information for notifications would be added to the capability to handle ''initial'' auction winners as licensees.

19. The Third NPRM proposes to conduct an auction of initial exclusive area licenses in the 37/42 GHz band which would be required to conform with general competitive bidding rules set out in part 1, subpart Q, of our rules, substantially consistent with the bidding procedures that have been employed in previous auctions, and specifically, rules governing competitive bidding design, designated entities, application and payment procedures, reporting requirements, collusion issues, and unjust enrichment. In this connection, the Third NPRM also would

require, pursuant to Section 309(j) of the Communications Act, resolution of such applications by competitive bidding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

20. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following three alternatives (among others): ''(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities.''

21. In the Third NPRM, we propose service and auction rules for the 37/42 GHz bands in order to establish a flexible regulatory and licensing framework that would promote seamless deployment of a host of services and technologies. We seek comment on the possibility of conducting an auction—where applications are mutually exclusive and issuing exclusive licenses for the 37/42 GHz bands on a geographic basis. We believe that our proposed approach would provide a variety of businesses with the opportunity to participate in an auction of licenses in this band and afford licensees substantial flexibility for the provision of services with varying capital costs. We also believe that geographic area licensees in these bands would be presented with issues and costs similar to those presented to 39 GHz band licensees, including those involved in developing markets, technologies, and services. Smaller service areas make it easier for small businesses to bid successfully for licenses, but viable businesses may require larger service areas. We believe that the technical rules that apply to the 39 GHz band would also be appropriate for the 37/42 GHz bands, if we decide to adopt a geographic area licensing approach. It would be inappropriate to apply the 70/80/90 GHz technical rules to the 37/42 GHz bands because the bands differ significantly from each other. Because the 37/42 GHz band has such a large amount of spectrum, license portions of these blocks by Economic Areas (EAs) or other portions on a site-by-site basis could be other alternatives. By using this combined approach to licensing, the Commission may address the needs of large entities, as well as smaller businesses, including public safety entities. Therefore, we also seek comment on the benefits of having some spectrum licensed by geographic areas and some spectrum licensed on a site-by-site basis. As an alternative, we could also pair some of the channels in the 37.0–38.6 GHz portion with some of the channels in the 42.0–42.5 GHz portion or allocate channel sizes of 30 or 40 megahertz or even smaller. Perhaps smaller channels might allow for smaller businesses and private entities to effectively compete for spectrum needed for more limited applications without needing to obtain a larger amount of spectrum that would require substantial outlays of initial investment. We hope that these alternatives, which might especially affect small entity participation in the auction, will be addressed by commenters.

22. We note that if we adopt a geographic area licensing framework, we propose to permit 37/42 GHz licensees to partition and disaggregate spectrum freely within those bands. These options tend to assist small entities. For the geographic area approach, we propose to allow partitioning of any licensee-defined service area, disaggregation of any amount of spectrum and combined partitioning and disaggregation. The Third NPRM proposes to permit the 37/42 GHz bands to partition and disaggregate spectrum if the Commission adopts a geographic area licensing framework using EAs by competitive bidding and through private negotiation and agreement. Our Part 1 unjust enrichment provisions would govern partitioning and disaggregation arrangements involving licenses authorized to small businesses afforded a bidding credit, including those that later elect to partition or disaggregate their licenses to an entity that is not eligible for the same bidding credit. In addition, Section 309(j)(3)(B) of the Communications Act provides that, in establishing eligibility criteria and bidding methodologies, the Commission shall promote ''economic opportunity and competition * * * by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.'' The Commission concluded in the *First NPRM and Order,* that it should make partitioning and disaggregation available to all 39 GHz licensees, because these capabilities would promote flexibility both in system design and service, and encourage new entrants into the market by creating smaller, less capital-intensive service areas that may be more accessible to small entities.

23. In contrast, in the *70/80/90 GHz Report and Order,* the Commission noted that the use of partitioning and disaggregation is pertinent only in geographic licensing settings, where the licensee has exclusive use of a particular area. It determined that its decision to authorize the 70/80/90 GHz bands on the basis of nationwide non-exclusive licensing obviated the need for partitioning and disaggregation. A viable alternative to the geographic area licensing approach would be to issue an unlimited number of non-exclusive nationwide licenses, with licensees authorized to deploy point-to-point ''pencil beam'' links on a first-come-first-served basis. Thus, there will be no need for partitioning and disaggregation if we adopt a non-exclusive link-by-link registration approach. We seek comment on all of these proposals.

24. Also, as an alternative, and in the interest of regulatory certainty, if we adopt a geographic area licensing structure, we propose to adopt a rule specifically permitting spectrum aggregation. The Commission has also concluded that permitting aggregation of channels might benefit the public through efficiencies and flexibility in the types of services this would allow, and might provide for lower costs or greater ability to compete with established service providers with large transmission capacity. We also propose that 37/42 GHz licensees be allowed to aggregate their spectrum in order to provide greater flexibility of service. In other services, the Commission has adopted a rule expressly permitting aggregation.

25. The Third NPRM proposes competitive bidding procedures if we license bands by EAs when awarding 37/42 GHz licensees set out in part 1, subpart Q of our rules. Small businesses that choose to participate in the competitive bidding for these services and utilize a bidding credit are required to demonstrate that they meet the criteria set out to qualify as small businesses, as required under part 1, subpart Q of the Commission's rules, 47 CFR part 1, subpart Q. We believe that the small business size standards and corresponding bidding credits proposed would provide a variety of businesses with opportunities to participate in the auction of licenses for the 37/42 GHz band and afford licensees substantial flexibility for the provision of services with varying capital costs. We further

propose to provide small businesses with a bidding credit of fifteen percent and very small businesses with a bidding credit of twenty-five percent. The bidding credits we propose here are those set out in the standardized schedule in part 1 of our rules. We also seek comment on the use of these standards and associated bidding credits for applicants to be licensed in the 37/42 GHz band, with particular focus on the appropriate definitions of small and very small businesses as they relate to the size of the geographic area to be covered and the spectrum allocated to each license. In developing these proposals, however, we acknowledge the difficulty in accurately predicting the market forces that will exist at the time we license these frequencies. Thus, our forecasts of types of services that licensees will offer over these bands may require adjustment depending upon ongoing technological developments and changes in market conditions. Accordingly, to the extent commenters support a different bidding credit regime, or believe that there are any distinctive characteristics to the 37/42 GHz band that suggest we should not employ bidding credits in this instance, commenters should support their proposals with relevant information. For example, commenters should provide information on the types of system architecture that licensees are likely to deploy in these bands, the availability of equipment, market conditions, and other factors that may affect the capital requirements or the types of services that licensees may provide.

F. Federal Rules That Overlap, Duplicate, or Conflict With These Proposed Rules

None.

Ordering Clauses

Pursuant to sections 1, 4(i), 7, 301, 303, 308 and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 157, 301, 303, 308, 309(j), *notice is hereby given* of the proposed regulatory changes described above and as specified in Rule Changes, and that comment is sought on these proposals.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this (Third NPRM), including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 0

Reporting and recordkeeping.

47 CFR Part 2

Communications Equipment, Radio, and Reporting and recordkeeping.

47 CFR Part 101

Communications Equipment, Radio, Reporting and recordkeeping, Satellites, Telecommunications.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0, 2, and 101 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat 1068, as amended; 47 U.S.C. 155, 225 unless otherwise noted.

2. Section 0.331(d) is amended by revising paragraph (d) introductory text to read as follows:

§ 0.331 Authority delegated.

* * * * *

(d) *Authority concerning rulemaking proceedings.* The Chief, Wireless Telecommunications Bureau shall not have the authority to act upon notices of proposed rulemaking and inquiry, final order in rulemaking proceedings and inquiry proceedings, and reports arising from any of the foregoing except such orders involving ministerial conforming amendments to rule parts, or order conforming any of the applicable rules to formally adopted international conventions or agreements where novel question of fact, law, or policy are not involved. Updates to the list of NTIA facilities in § 101.147 of this chapter need not be referred to the Commission if they do not involve novel questions of fact, policy or law. Also the addition of new Marine VHF frequency coordination committee(s) to § 80.514 of this chapter need not be referred to the Commission if they do not involve novel questions of fact, policy or law, as well as requests by the United States Coast Guard to:

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.106, is amended as follows:

a. Revise pages 76 and 77 of the Table.

b. In the list of United States footnotes, add footnote USxxx.

c. In the list of non-Federal government footnotes, add footnote NGxxx.

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.149	36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263 US342		
37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.547	37-38 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37-37.5 FIXED MOBILE USxxx	Fixed Microwave (101)
37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth) 5.547	USxxx	37.5-38.6 FIXED FIXED-SATELLITE (space-to-Earth) NGxxx MOBILE	Satellite Communications (25) Fixed Microwave (101)
38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth exploration-satellite (space-to-Earth) 5.547	38-38.6 FIXED MOBILE	USxxx	
	38.6-39.5	38.6-39.5 FIXED FIXED-SATELLITE (space-to-Earth) NGxxx MOBILE NG175	
39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B MOBILE MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite (space-to-Earth) 5.547	39.5-40 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US382 G117	39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) NGxxx MOBILE NG175 US382	
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United States (U.S.) Footnotes

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U.S.xxx In the band 37–38 GHz, the following Government receiving earth stations have been coordinated with the FCC and shall be protected from non-operations in the fixed and mobile services in the band 37–38 GHz and from non-Government earth stations in the fixed-satellite service (space-to-Earth) in the sub-band 37.5–38 GHz. Non-Government applications for fixed and mobile service use of frequencies in the band 37–38 GHz shall be coordinated with NTIA through the Frequency Assignment Subcommittee within the following coordination areas/distances. The coordinates listed below are specified in terms of the North American Datum of 1983.

In the band 37–38 GHz, the following stations in the space research service (space-to-Earth) have been coordinated:

Site	Coordination area
NASA Goldstone Deep Space Communications Complex, Goldstone, California.	30 kilometer (18.64 mile) radius centered on latitude 35° 9′00″ N, longitude 116° 50′06″ W.
National Radio Astronomy Observatory, Green Bank, West Virginia.	Rectangle between latitudes 37° 30′ N and 39° 15′ N and between longitudes 78° 30′ W and 80° 30′ W (National Radio Quite Zone).

Non-Federal Government (NG) Footnotes

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NGxxx The use of the band 37.5–40 GHz by the fixed-satellite service (space-to-Earth) is limited to gateway earth station operations as set out in 47 CFR part 25.

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PART 101—FIXED MICROWAVE SERVICES

1. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Section 101.17 is revised to read as follows:

§ 101.17 Performance requirements for the 37.0–40.0 GHz and 42.0–42.5 GHz frequency bands.

(a) All 37.0–40.0 GHz and 42.0–42.5 GHz band licensees must demonstrate substantial service at the time of license renewal. A licensee's substantial service showing should include, but not be limited to, the following information for each channel for which they hold a license, in each EA or portion of an EA covered by their license, in order to qualify for renewal of that license. The information provided will be judged by the Commission to determine whether the licensee is providing service which rises to the level of ''substantial.'' Licensees, whether the license was obtained through competitive bidding or partitioning/aggregation/disaggregation, may build facilities anywhere within the authorized service area without further authority from the Commission, provided that they have complied with applicable Commission requirements. The Commission does not require individual licenses for each terrestrial fixed facility.

(1) A description of the 37.0–40.0 GHz, or 42.0–42.5 GHz band licensee's current service in terms of geographic coverage;

(2) A description of the 37.0–40.0 GHz, or 42.0–42.5 GHz band licensee's current service in terms of population served, as well as any additional service provided during the license term;

(3) A description of the 37.0–40.0 GHz, or 42.0–42.5 GHz band licensee's investments in its system(s) (type of facilities constructed and their operational status is required);

(b) Any 37.0–40.0 GHz and 42.0–42.5 GHz band licensees adjudged not to be providing substantial service will not have their licenses renewed.

3. Sections 101.56 is amended by revising paragraphs (a)(1), (a)(2)(ii), (b), (f), (g), (h) and (i) to read as follows:

§ 101.56 Partitioned services areas (PSAs) and disaggregated spectrum.

(a)(1) The holder of an EA authorization to provide service pursuant to the competitive bidding process areas in the 37.0–40.0 GHz and 42.0–42.5 GHz bands and any incumbent licensee of rectangular service areas in the 38.6–40.0 GHz band may enter into agreements with eligible parties to partition any portion of its service area as defined by the partitioner and partitionee. Alternatively, licensees may enter into agreements or contracts to aggregate/disaggregate any amount of spectrum, provided acquired spectrum is aggregated/disaggregated in frequency pairs.

(2) * * *

(a)(2)(ii) The contracts must include descriptions of the areas being partitioned or spectrum being aggregated/disaggregated. The partitioned service area shall be defined by coordinate points at every 3 seconds along the partitioned service area unless an FCC recognized service area is utilized (*i.e.*, Metropolitan Service Area or Rural Service Area) or county lines are followed. If geographic coordinate points are used, they must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude and must be based upon the 1983 North American Datum (NAD83). In the case where an FCC recognized service area or county lines are utilized, applicants need only list the specific area(s) (through use of FCC designations or county names) that constitute the partitioned area.

(b) The eligibility requirements applicable to EA authorization holders also apply to those individuals and entities seeking partitioned or aggregated/disaggregated spectrum authorizations.

* * * * *

(f) The duties and responsibilities imposed upon EA authorization holders in this part, apply to those licensees obtaining authorizations by partitioning or spectrum aggregation/disaggregation.

(g) The build out requirements for the partitioned service area or aggregated/disaggregated spectrum shall be the same as applied to the EA authorization holder.

(h) The license term for the partitioned service area or aggregated/disaggregated spectrum shall be the remainder of the period that would apply to the EA authorization holder.

(i) Licensees, including those using bidding credits in a competitive bidding procedure, shall have the authority to partition service areas or aggregated/disaggregated spectrum.

4. Subpart B is amended by adding § 101.58 to read as follows:

§ 101.58 System operations.

(a) The licensee in the 37.0–40.0 GHz and 42.0–42.5 GHz bands may construct and operate any number of fixed stations anywhere within the area authorized by the license without prior authorization, except as follows:

(1) A station is required to be individually licensed under part 101 if:

(i) International agreements require coordination;

(ii) Submission of an Environmental Assessment is required under § 1.1307 of this chapter.

(iii) The station would affect the radio quiet zones under § 1.924 of this chapter.

(2) Any antenna structure that requires notification to the Federal Aviation Administration (FAA) must be registered with the Commission prior to construction under § 17.4 of this chapter.

(3) Frequencies in the 37.0–38.6 GHz band are co-primary and shared with the Government. All parties concerned should complete coordination based on a first in time sharing basis and obtain coordination agreements with prior licensed facility operators before operating.

(b) Whenever a licensee constructs or makes system changes as described in

paragraph (a) of this section, the licensee is required to notify the Commission within 30 days of the change under § 1.947 of this chapter and include a statement of the technical parameters of the changed station.

5. Section 101.63 is amended by revising paragraph (a) to read as follows:

§ 101.63 Period of construction; certification of completion of construction.

(a) Each station, except in Local Multipoint Distribution Services, 24 GHz Service, the 37.0–40.0 GHz and 42.0–42.5 GHz bands, authorized under this part must be in operation within 18 months from the initial date of grant. For the 70 GHz, 80 GHz, and 90 GHz bands, each 18-month construction period will commence on the date of each registration of each individual link; adding links will not change the overall renewal period of the license.

* * * * *

6. Section 101.64 is revised to read as follows:

§ 101.64 Service areas.

Service areas for 37.0–40.0 GHz and 42.0–42.5 GHz service are Economic Areas (EAs) as defined below and in effect as of April 12, 2000. EAs are delineated by the Regional Economic Analysis Division, Bureau of Economic Analysis, U.S. Department of Commerce, 1995. The Commerce Department organizes the 50 States and the District of Columbia into 172 EAs. Additionally, there are four EA-like areas: Guam and Northern Mariana Islands; Puerto Rico and the U.S. Virgin Islands; American Samoa and the Gulf of Mexico. A total of 175 authorizations (excluding the Gulf of Mexico EA-like area) will be issued for each channel block in the 37.0–40.0 GHz and 42.0–42.5 GHz bands.

7. Section 101.101 is amended by adding in numerical order to the table entries for ''37,000–38,600 MHz'' and ''42,000–42,500 MHz'' and by revising the entry for ''38,600–40,000 MHZ'' to read as follows:

§ 101.101 Frequency availability.

Frequency band (MHz)	Radio service				
	Common carrier (part 101)	Private radio (part 101)	Broadcast auxiliary (part 74)	Other (parts 15, 21, 22, 24, 25, 74, 78 & 100)	Notes
* * *	*	*	*		*
37,000–38,600	CC	OFS		25	F/M/TF
38,600–40,000	CC	OFS	TV BAS	25	F/M/TF
42,000–42,500	CC	OFS			F/M/TF
* * *	*	*	*		*

* * * * *

8. Section 101.103 is amended by revising paragraph (i) and by adding paragraphs (j) and (k) to read as follows:

§ 101.103 Frequency coordination procedures.

* * * * *

(i)(1) When fixed microwave or fixed satellite earth station facilities licensed under Part 101 are to be operated in the band 37,000 MHz to 40,000 MHz or 42,000 MHz to 42,500 MHz, the following coordination procedures shall apply:

(i) All harmful interference to other users and blocking of adjacent channel use in the same or adjacent geographical area is prohibited. In areas near the border between two licensees' service areas, careful consideration should be given to minimum power requirements and to the location, height, and radiation pattern of the transmitting antenna. Licensees are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(ii) Each licensee must engineer its system to be reasonably compatible with adjacent and co-channel operations in the same or adjacent areas, and cooperate fully and in good faith to resolve whatever potential interference and transmission security problems may be present in adjacent and co-channel operations.

(iii) A licensee shall coordinate its facilities whenever the facilities have optical line-of-sight (calculated using the formula $d = 3.57\sqrt{h}$, where d is the distance between the antenna and the horizon in kilometers and h is the antenna height in meters) into another licensee s geographic area where that licensee's facilities may be located or into another licensee's facilities within the same or adjacent geographic area, and the power flux density of the licensee's system calculated at the service area boundary of the neighboring service area(s) exceeds -125 dBW/m^2 in any 1 megahertz band. This line of site should take into consideration all the possible relevant heights of the other licensee's antenna(s). Power flux density is calculated using accepted engineering practices, taking into account such factors as propagation loss, atmospheric loss, curvature of the Earth, and gain of the antenna in the direction of the service area boundary. Licensees are encouraged to develop operational agreements with relevant licensees in the same or adjacent areas.

(iv) In the event no licensee in the bands 37,000 MHz to 40,000 MHz or 42,000 MHz to 42,500 MHz is immediately available in an adjacent or same area, the first-in-time licensee would have to coordinate its stations when future licensees appear in order to accommodate other licensees' rights and to ensure cooperative and effective use of the spectrum in each area. This may include reducing powers to levels which are agreeable to both parties.

(i)(2) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Any response to notification indicating potential interference must specify the technical details and must be provided to the licensee, either electronically or in writing, within 10 days of notification. Every reasonable effort should be made by all licensees to eliminate all problems and conflicts. If no response to notification is received within 10 days, the licensee will be deemed to have made reasonable efforts to coordinate and may commence operation without a response. The beginning of the 10-day period is determined pursuant to § 101.103(d)(2)(v).

(i)(3) Licensees shall comply with the appropriate coordination agreements between the United States and Canada and the United States and Mexico concerning cross-border sharing and use

of the 37.0–40. GHz and 42.0–42.5 GHz bands.

(j) *Special consideration for coordinating with Government stations in the 37–38.6 GHz band:*

(1) In the band 37–38 GHz, use of the space research service (space-to-Earth) shall be on a primary basis only at Goldstone, California. Stations in the fixed and mobile services within 80 kilometers (50 miles) of 35° 18′ North Latitude and 116° 54′ West Longitude shall be coordinated through contacting the facility directly. Stations in the 37.0–38.6 GHz band in the vicinity of Green Bank, West Virginia must also coordinate as required by Section 1.924. The interference protection criterion to these facilities is −130 dBW/m² in any 1 MHz, and licensees must obtain letters of approval for their operations from the relevant Government facility. Other uses of the space research service (space-to-Earth) in the band 37–38 GHz shall be on a secondary basis.

(2) Non-Government licensees in the 37–38.6 GHz band must register their technical data electronically into the ULS for each station in each of their geographic areas in order to make available accurate information on the use of the facilities and also to implement the ''first-in-time'' principle for coordination with Government facilities. This data shall include: 1) the date of the initial operating capability (IOC) of each station, 2) specific information identifying the station locations, 3) technical operating capabilities of the stations, including all of the power and antenna characteristics specified in Section 101.103(d)(2)(ii) of this section, and 4) whether the station has optical line-of-site to another facility with which it is being coordinated, if known at the time. If it is determined that optical line-of-site does not exist, the applicant should explain the determination. This site-based information shall be entered into the record of the area license in the ULS database by electronically registering notifications to the initial FCC Form 601 using Schedule I, but not more than twelve (12) months before operations are scheduled to begin.

(3) The FCC will note the activation date of the station, but will not make a determination that any of the information is correct or acceptable for filing. Coordination involving current and future Government facilities will require licensees and applicants to ensure that their data is accurately reflected in the ULS.

(4) Government operators with existing facilities in the 37.0–38.6 GHz band should cooperate in the coordination process by responding to non-Government coordination notifications. Government operators with new stations to coordinate can identify and directly access the technical information of the non-Government licensees through the ULS. Examining the data in the ULS before formally coordinating with the FCC in the appropriate frequency band and geographic service area may speed up the frequency selection process. Government operators with new stations should notify the FCC through the IRAC process with sufficient technical detail to determine whether potential interference is possible with facilities of our licensees/applicants.

(5) *Non-Government Operations Coordinating with Existing Government Operations.* Non-Government terrestrial users in the band 37.0–38.6 GHz, and also operators who wish to protect an FSS (downlink) earth station in the band 37.5–38.6 GHz, shall coordinate with the existing military terrestrial Government facilities in 37.0–38.6 GHz (existing stations are identified in Appendix E) through the ULS and IRAC process. The proposed coordination triggers for non-Government stations are that the antenna must have optical line-of-sight to the Government facilities and that the PFD at the site exceeds a threshold of −125 dBW/m² in any 1 MHz band. Harmful interference is not anticipated if neither of these conditions exist. The FCC and NTIA will resolve interference problems referred to them to their mutual satisfaction based on first-in-time sharing basis.

(6) *Non-Government Operations Coordinating with Future Government Operations.* Government terrestrial users in the band 37.0–38.6 GHz, and also operators who are required to protect an FSS (downlink) earth station in the band 37.5–38.6 GHz, are required to coordinate with future Government SRS (downlink space research antennas) operations and Government terrestrial facilities in the band 37.0–38.6 GHz at locations not identified at this time. The coordination triggers for non-Government stations are that the antenna must be within optical line-of-sight of an authorized Government site and that the station have a PFD at the site exceeding a threshold of −130 dBW/m² in any 1 MHz band for the SRS (downlink) operations and −125 dBW/m² in any 1 MHz band for the terrestrial facilities. Harmful interference is not anticipated if neither of these conditions exist. The coordinating parties are expected to resolve interference protection to their mutual satisfaction based on first-in-time sharing or to derive written sharing agreements.

(7) *Government Operations Coordinating with Future Non-Government Operations.* Government SRS (downlink space research antennas) users and Government terrestrial users in the 37.0–38.6 GHz band are expected to coordinate with existing and future non-Government operations. The coordination triggers for Government SRS stations are that the antenna have optical line-of-sight to an authorized non-Government site and have a vulnerability threshold PFD at the SRS receiver of −130 dBW/m² in any 1 MHz band. The coordinating parties are expected to resolve interference protection to their mutual satisfaction based on first-in-time sharing. The coordination triggers for Government terrestrial stations are that the transmitting antenna have optical line-of-sight to the site of an authorized non-Government facility and have a PFD at the non-Government site exceeding a threshold of −125 dBW/m² in any 1 MHz band. The FCC and NTIA will resolve interference problems referred to them to their mutual satisfaction based on first-in-time sharing.

(k) *Special consideration for coordinating Government stations in the 39.5–40.06 GHz band.* Government operators who are required to coordinate and protect non-Government terrestrial stations or FSS (downlink) earth stations in the band 39.5–40.061 GHz shall coordinate directly with the existing non-Government licensee for any earth stations located on military bases, and with the non-Government terrestrial licensee in whose service area the Government earth station is to be located. All parties concerned should resolve the coordination problems based on a first in time sharing basis and obtain coordination agreements with prior licensed facility operators.

9. Section 101.107 is amended by adding footnote 9 to the table in paragraph (a) to read as follows:

§ 101.107 Frequency tolerance.

(a) * * *

Frequency (MHz)	Frequency tolerance (percent)
* * * * *	
31,300 to 40,000[4, 9]	0.03
71,000 to 76,000[8, 9]	
81,000 to 86,000[8, 9]	
92,000 to 95,000[8, 9]	

Frequency (MHz)	Frequency tolerance (percent)
* * * * *	

[9] Equipment authorized to be operated in the 37,000–40,000 MHz, 42,000–42,500 MHz, 71,000–76,000 MHz, 81,000–86,000 MHz, 92,000–94,000 MHz and 94,100–95,000 MHz bands is exempt from the frequency tolerance requirement noted in the above table.

* * * * *

10. Section 101.109 is amended by removing the entry for ''38,600–40,000 MHz'' and adding in numerical order entries for ''37,000–40,000 MHz'' and ''42,000–42,500 MHz'' in the table in paragraph (c) and by revising footnote 7 to read as follows:

§ 101.109 Bandwidth.

* * * * *

(c) * * *

Frequency band (MHz)	Maximum authorized bandwidth
* * * * *	
37,000 to 40,000	50 MHz [7]
42,000 to 42,500	50 MHz [7]
* * * * *	

[7] For channel block assignments in the 24,250–25,250 MHz, 37,000–40,000 MHz, and 42,200–42,500 MHz bands, the authorized bandwidth is equivalent to an unpaired channels block assignment or to either half of a symmetrical paired channel block assignment. When adjacent channels are aggregated, equipment is permitted to operate over the full channel block aggregation without restriction.

* * * * *

11. Section 101.113(a) is amended by removing the entry for ''38,600–40,000 MHz'' and by adding in numerical order entries in the table for ''37,000–40,000 MHz'' and for ''42,000–42,500 MHz'' to read as follows:

§ 101.113 Transmitter power limitations.

(a) * * *

Frequency band (MHz)	Maximum allowable EIRP [1 2]	
	Fixed (dBW)	Mobile (dBW)
* * * * *		
37,000 to 40,000 ...	+55	.....
42,000 to 42,500 ...	+55	.....
* * * * *		

* * * * *

12. Section 101.115 is amended by removing the entry for ''38, 600–40,00 MHz'', adding in numerical order entries in the table for ''37,000–40,000 MHz'' and 42,000–42,500 MHz'', and by revising footnote 14 in paragraph (b) to read as follows:

§ 101.115 Directional antennas.

* * * * *

(b) * * *

*	*	*	*	*	*	*				
37,000 to 40,000 [14]	A	n/a	38	25	29	33	36	42	55	55
	B	n/a	38	20	24	28	32	35	36	36
42,000 to 42,500 [14]	A	n/a	38	25	29	33	36	42	55	55
	B	n/a	38	20	24	28	32	35	36	36
*	*	*	*	*	*	*				

[14] Stations authorized to operate in these bands may use antennas other than those meeting the Category A standard. However, the Commission may require the use of higher performance antennas where interference problems can be resolved by the use of such antennas.

* * * * *

13. Section 101.147 is amended by revising paragraph (v) to read as follows:

§ 101.147 Frequency assignments.

* * * * *

(v)(1) Assignments in the bands 37,000–40,000 MHz and 42,000–42,500 MHz must be according to the following frequency plan:

OPTION 1

[Unpaired channels are at lower end of 37.0–38.6 GHz]

Paired channel blocks			
Channel Group A		Channel Group B	
Channel No.	Frequency block (MHz)	Channel No.	Frequency block (MHz)
1–A	38,600–38,650 ...	1–B	39,300–39,350.
2–A	38,650–38,700 ...	2–B	39,350–39,400.
3–A	38,700–38,750 ...	3–B	39,400–39,450.
4–A	38,750–38,800 ...	4–B	39,450–39,500.
5–A	38,800–38,850 ...	5–B	39,500–39,550.
6–A	38,850–38,900 ...	6–B	39,550–39,600.
7–A	38,900–38,950 ...	7–B	39,600–39,650.
8–A	38,950–39,000 ...	8–B	39,650–39,700.
9–A	39,000–39,050 ...	9–B	39,700–39,750.
10–A	39,050–39,100 ...	10–B	39,750–39,800.
11–A	39,100–39,150 ...	11–B	39,800–39,850.
12–A	39,150–39,200 ...	12–B	39,850–39,900.
13–A	39,200–39,250 ...	13–B	39,900–39,950.
14–A	39,250–39,300 ...	14–B	39,950–40,000.
19–A	37,200–37,250 ...	19–B	37,900–37,950.
20–A	37,250–37,300 ...	20–B	37,950–38,000.
21–A	37,300–37,350 ...	21–B	38,000–38,050.
22–A	37,350–37,400 ...	22–B	38,050–38,100.

OPTION 1—Continued

[Unpaired channels are at lower end of 37.0–38.6 GHz]

Paired channel blocks			
Channel Group A		Channel Group B	
Channel No.	Frequency block (MHz)	Channel No.	Frequency block (MHz)
23–A	37,400–37,450	23–B	38,100–38,150.
24–A	37,450–37,500	24–B	38,150–38,200.
25–A	37,500–37,550	25–B	38,200–38,250.
26–A	37,550–37,600	26–B	38,250–38,300.
27–A	37,600–37,650	27–B	38,300–38,350.
28–A	37,650–37,700	28–B	38,350–38,400.
29–A	37,700–37,750	29–B	38,400–38,450.
30–A	37,750–37,800	30–B	38,450–38,500.
31–A	37,800–37,850	31–B	38,500–38,550.
32–A	37,850–37,900	32–B	38,550–38,600.
33–A	42,000–42,050	33–B	42,250–42,300.
34–A	42,050–42,100	34–B	42,300–42,350.
35–A	42,100–42,150	35–B	42,350–42,400.
36–A	42,150–42,200	36–B	42,400–42,450.
37–A	42,200–42,250	37–B	42,450–42,500.

Unpaired channel blocks	
Channel No.	Frequency block (MHz)
15	37,000–37,050.
16	37,050–37,100.
17	37,100–37,150.
18	37,150–37,200.

OPTION 2

[Unpaired channels are at upper end of 37.0–38.6 GHz]

Paired channel blocks			
Channel Group A		Channel Group B	
Channel No.	Frequency block (MHz)	Channel No.	Frequency block (MHz)
1–A	38,600–38,650	1–B	39,300–39,350.
2–A	38,650–38,700	2–B	39,350–39,400.
3–A	38,700–38,750	3–B	39,400–39,450.
4–A	38,750–38,800	4–B	39,450–39,500.
5–A	38,800–38,850	5–B	39,500–39,550.
6–A	38,850–38,900	6–B	39,550–39,600.
7–A	38,900–38,950	7–B	39,600–39,650.
8–A	38,950–39,000	8–B	39,650–39,700.
9–A	39,000–39,050	9–B	39,700–39,750.
10–A	39,050–39,100	10–B	39,750–39,800.
11–A	39,100–39,150	11–B	39,800–39,850.
12–A	39,150–39,200	12–B	39,850–39,900.
13–A	39,200–39,250	13–B	39,900–39,950.
14–A	39,250–39,300	14–B	39,950–40,000.
15–A	37,000–37,050	15–B	37,700–37,750.
16–A	37,050–37,100	16–B	37,750–37,800.
17–A	37,100–37,150	17–B	37,800–37,850.
18–A	37,150–37,200	18–B	37,850–37,900.
19–A	37,200–37,250	19–B	37,900–37,950.
20–A	37,250–37,300	20–B	37,950–38,000.
21–A	37,300–37,350	21–B	38,000–38,050.
22–A	37,350–37,400	22–B	38,050–38,100.
23–A	37,400–37,450	23–B	38,100–38,150.
24–A	37,450–37,500	24–B	38,150–38,200.
25–A	37,500–37,550	25–B	38,200–38,250.
26–A	37,550–37,600	26–B	38,250–38,300.
27–A	37,600–37,650	27–B	38,300–38,350.
28–A	37,650–37,700	28–B	38,350–38,400.
33–A	42,000–42,050	33–B	42,250–42,300.
34–A	42,050–42,100	34–B	42,300–42,350.
35–A	42,100–42,150	35–B	42,350–42,400.
36–A	42,150–42,200	36–B	42,400–42,450.

OPTION 2—Continued

[Unpaired channels are at upper end of 37.0–38.6 GHz]

Paired channel blocks			
Channel Group A		Channel Group B	
Channel No.	Frequency block (MHz)	Channel No.	Frequency block (MHz)
37–A	42,200–42,250	37–B	42,450–42,500.

Unpaired channel blocks	
Channel No.	Frequency block (MHz)
29	38,400–38,450.
30	38,450–38,500.
31	38,500–38,550.
32	38,550–38,600.

(v)(2) Channel Blocks 1 through 37 are assigned for use within Economic Areas (EAs). Applicants are to apprise themselves of any licensed rectangular service areas in the band 38,6000–40,000 MHz within the EA for which they seek a license and comply with the requirements set out in § 101.103. All of the channel blocks may be subdivided as desired by the licensee as frequency pairs and used within its service area as desired without further authorization subject to the terms and conditions set out in § 101.149.

* * * * *

14. Section 101.149 is amended by revising introductory text and by adding paragraphs (d) and (e) to read as follows:

§ 101.149 Special requirements for operation in the bands 37,000–40,000 MHz, and 42,000–42,500 MHz.

Assigned frequency channels in the bands 37,000–40,000 MHz, and 42,000–42,500 MHz may be aggregated/disaggregated with no limits and used anywhere in the authorized service area, subject to the following terms and conditions:

* * * * *

(d) Point-to-point, point-to-multipoint, fixed and mobile terrestrial operations (upon adoption of interference protection criteria for mobile operations) shall be permitted in the bands 37,000–40,000 MHz, and 42,000–42,500 MHz. Fixed satellite earth station operations may also be permitted if the license is obtained through competitive bidding, partitioning, and/or aggregation/disaggregation under part 101.

(e) For the frequency bands 37,000–40,000 MHz, and 42,000–42,500 MHz, spectrum must be aggregated/disaggregated by frequency pairs.

15. Subpart N of part 101 is amended by revising the subpart heading to read as follows:

Subpart N—Competitive Bidding Procedures for the 37.0–40.0 GHz and 42.0–42.5 GHz Bands

* * * * *

16. Section 101.1201 is revised to read as follows:

§ 101.1201 37.0–40.0 GHz and 42.0–42.5 GHz subject to competitive bidding.

Mutually exclusive initial applications for 37.0–40.0 GHz and 42.0–42.5 GHz band licenses are subject to competitive bidding. The general competitive bidding procedures set forth in 47 CFR part 1, subpart Q will apply unless otherwise provided in this subpart.

17. Subpart N is amended by adding § 101.1212 to read as follows:

§ 101.1212 Designated entities.

(a) *Eligibility for small business provisions.* (1) A small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $15 million for the preceding three years.

(b) *Bidding credits.* (1) A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use a bidding credit of 15 percent, as specified in § 1.2110(f)(2)(iii), to lower the cost of its winning bid on any of the licenses in this part.

(2) A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use a bidding credit of 25 percent, as specified in § 1.2110(f)(2)(ii), to lower the cost of its winning bid on any of the licenses in this part.

[FR Doc. 04–18807 Filed 8–26–04; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 69, No. 166

Friday, August 27, 2004

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

Grain Inspection, Packers and Stockyards Administration

Wheat Protein Calibration

AGENCY: Grain Inspection, Packer and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is announcing its intent to provide official protein content measurements for wheat using an Artificial Neural Network (ANN) calibration on the official near-infrared transmittance (NIRT) instruments. GIPSA provides protein content measurement in wheat as official criteria under the authority of the United States Grain Standards Act.

DATES: Effective May 1, 2005.

FOR FURTHER INFORMATION CONTACT: Steven N. Tanner, Director, Technical Services Division, GIPSA, USDA, 10383 N. Ambassador Drive, Kansas City, Missouri 64153; telephone (816) 891–0401; fax (816) 891–0478.

SUPPLEMENTARY INFORMATION: At present, GIPSA maintains individual partial least squares (PLS) calibrations to determine protein content for each of the six major classes of wheat—Hard Red Winter, Soft Red Winter, Soft White, Hard Red Spring, Hard White, and Durum. As part of GIPSA's on-going efforts to evaluate calibrations and programs, GIPSA has thoroughly evaluated the effect of switching from the current PLS calibrations to an ANN calibration. A single ANN calibration can be used for protein determinations in all six wheat classes. Comprehensive results of GIPSA's evaluation and other ANN-related information may be found on GIPSA's Web site at: *http://www.usda.gov/gipsa.*

Based on its evaluation, GIPSA has decided to implement the new ANN wheat protein calibration on official NIRT instruments for all classes of wheat on May 1, 2005.

Authority: 7 U.S.C. 71 *et seq.*

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 04–19602 Filed 8–26–04; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Revise an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to request revision of a currently approved information collection, the National Childhood Injury and Occupational Injury Survey of Farm Operators.

DATES: Comments on this notice must be received by November 1, 2004 to be assured of consideration.

ADDRESSES: Comments may be sent to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5330B South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024 or *gmcbride@nass.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: National Childhood Injury and Occupational Injury Survey of Farm Operators.

OMB Control Number: 0535–0235.

Expiration Date of Approval: 12/31/2004.

Type of Request: Revision of a Currently Approved Information Collection.

Abstract: The National Childhood Injury and Occupational Injury Survey of Farm Operators is designed to: (1) Provide estimates of childhood nonfatal injury incidence and description of injury occurring to children less than 20 years of age who reside, work, or visit farms and (2) describe the occupational injury experience of all farm operators. Data will be collected by telephone from all 50 states with 25,000 operations receiving a Childhood Injury version only and 25,000 receiving a combined Childhood Injury and Occupational Injury version. Questions will relate to injury problems occurring during the 2004 calendar year.

These data will update and enhance existing data series used by the National Institute of Occupational Safety and Health to: (1) Establish a measure of the number and rate of childhood injuries associated with farming operations and study the specific types of injuries sustained and (2) describe the scope and magnitude of occupational injuries associated with farming operations. The collection combines the youth and occupational injury studies to reduce the number of contacts on the targeted farm population. Reports will be generated and information disseminated to all interested parties concerning the finding of this study.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 minutes per response for the childhood injury questions and 10 minutes for the combined interview; screen-outs will be allowed early in both instruments if no injuries were incurred.

Respondents: Farm operators.

Estimated Number of Respondents: 50,000.

Estimated Total Annual Burden on Respondents: 5,400 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, Agency Clearance Officer, at (202) 720–5778.

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.

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

Signed at Washington, DC, July 27, 2004.

Carol House,

Associate Administrator.

[FR Doc. 04–19583 Filed 8–26–04; 8:45 am]

BILLING CODE 3410–20–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products previously furnished by such agencies.

DATES: Effective September 26, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

Additions

On June 4, June 18, and July 2, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 31588, 34121, and 40350) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Folding Chairs, Metal & Padded
7105–00–269–8463—Plain Metal (Class 1)
7105–00–663–8475—Vinyl Padded (Class 2)
NPA: ASPIRO, Inc., Green Bay, Wisconsin.
Contract Activity: GSA, National Furniture Center, Washington, DC.

Services

Service Type/Location: Data Entry, USDA, Food Safety & Inspection Services, Minneapolis, Minnesota.
NPA: JVS Works, Inc., Minnetonka, Minnesota.
Contract Activity: GSA, Federal Technology Service, Ft. Huachuca, Arizona.
Service Type/Location: Document Destruction—Internal Revenue Service,

NISH, Vienna Virginia (Prime Contractor).

Performance to be allocated to the Nonprofit Agencies identified at the following locations:
1122 Town & Country Commons, Chesterfield, Missouri
1222 Spruce Street, St. Louis, Missouri
2218 N. Highway 67, Florissant, Missouri
3636 S. Geyer Road, Suite 300, St. Louis, Missouri
NPA: Challenge Unlimited, Inc., Alton, Illinois
24200 Tower Place, Peewaukee, Wisconsin
517 E. Wisconsin Avenue, Milwaukee, Wisconsin
6021 Durand Avenue, Suite 600, Racine, Wisconsin
Reuss Federal Plaza, Milwaukee, Wisconsin
NPA: Milwaukee Center for Independence, Inc., Milwaukee, Wisconsin
250 Marquette Avenue, Suite 560 (CID), Minneapolis, Minnesota
250 Marquette Avenue, Suite 275 (TAC), Minneapolis, Minnesota
2001 Killebrew Drive, Bloomington, Minnesota
6040 Earle Brown Drive, Brooklyn Center, Minnesota
St. Paul Headquarters, 316 N. Robert Street, Minneapolis, Minnesota
Appeals Division, 175 E. Fifth Street, Suite 600, St. Paul, Minnesota
NPA: AccessAbility, Inc., Minneapolis, Minnesota
Internal Revenue Service Field Procurement Operation
230 S. Dearborn Street, 14th Floor, Chicago, Illinois
NPA: Opportunity, Inc., Highland Park, Illinois
Contract Activity: IRS—Western Area Procurement Branch—APFW, San Francisco, California.

Deletions

On April 30, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 23723) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Product/NSN: Bag, Soiled Clothes
8465–00–122–3869
NPA: None currently authorized.
Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.
Product/NSN: Bookcase, Wood, Executive
7110–00–973–5127
NPA: None currently authorized
Contract Activity: GSA, National Furniture Center, Washington, DC
Product/NSN: Books and Pamphlets (Program 1995–S)
7690–00–NSH–0088.
NPA: None currently authorized
Contract Activity: Government Printing Office, Washington, DC
Product/NSN: Costumer, Wood, Executive
7195–00–132–6642
7195–01–368–4817
7195–01–368–4818
7195–01–368–4819
7195–01–391–5136
7195–01–459–9149
7195–01–459–9150
7195–01–459–9151
7195–01–459–9152
7195–01–459–9153
7195–01–459–9154
NPA: None currently authorized
Contract Activity: GSA, National Furniture Center, Washington, DC
Product/NSN: Office Furniture—Tables, Wood
7110–00–151–6485
7110–00–177–4901
7110–00–177–4902
NPA: None currently authorized
Contract Activity: GSA, National Furniture Center, Washington, DC
Product/NSN: Office Furniture
7110–00–194–1613—Bookcase
7110–00–281–5689—Costumer
7195–00–242–3503—Coat Rack
NPA: None currently authorized
Contract Activity: GSA, National Furniture Center, Washington, DC
Product/NSN: Stamp, Rubber
7520–00-NSH–0084
7520–00-NSH–0085
7520–00–NSH–0086
NPA: None currently authorized
Contract Activity: Mountain Home Air Force Base, Idaho

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04–19641 Filed 8–26–04; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Current Population Survey (CPS), November Voting & Registration Supplement.

Form Number(s): None. The CPS is conducted by interviewers using laptop computers.

Agency Approval Number: 0607–0466.

Type of Request: Reinstatement, with change, of a previously approved collection.

Burden: 1,400 hours.

Number of Respondents: 56,000.

Avg Hours Per Response: 1.5 minutes.

Needs and Uses: The purpose of this request for review is to obtain Office of Management and Budget (OMB) clearance for the Current Population Survey (CPS) 2004 Voting and Registration Supplement to be conducted in conjunction with regular CPS interviewing during November 2004. This supplement continues the biennial collection of data concerning voting and registration that has been asked periodically since 1964. This supplement is sponsored by the U.S. Census Bureau.

The Voting and Registration data yields statistics on voter (and nonvoter) characteristics and current voter trends. These data enable policymakers to keep issues up to date, such as changes in participation in the election process by demographic characteristics such as age, sex, race, ethnicity, and educational attainment.

This clearance will also cover an identical voting and registration supplement to be conducted in November 2006.

The primary purpose of collecting these data from the November 2004 CPS supplement is to relate demographic characteristics (age, sex, race, education, occupation, and income) to voting and nonvoting behavior. Federal, state, and local election officials; college institutions; political party committees; research groups; and other private organizations use the voting and registration data collected in the November 2004 CPS supplement. Election officials use these data to formulate policies relating to the voting and registration process. Data obtained on duration of residence will allow policymakers and researchers to better determine the relationships between other demographic characteristics and voting behavior. Previous studies have shown that the voting and registration characteristics of recent movers differ greatly from those of nonmovers. By collecting and presenting data at the state level, we will also obtain information on the effectiveness of increased voter registration drives in different regions.

Affected Public: Individuals or households.

Frequency: Biennially.

Respondent's Obligation:

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: August 23, 2004.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–19576 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet September 14, 2004, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Export Administration Regulations.
4. Update on computer and microprocessor technology controls.
5. Update on Special Intra-company License (SIL) proposal.
6. Update on encryption controls.
7. Update on country group revision project.

8. Update on Excluded Parties Listing System (EPLS) project.

9. Update on Automated Export System (AES).

10. Update on export enforcement initiatives.

11. Reports from working groups.

Closed Session

12. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3).

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Lee Ann Carpenter at *Lcarpent@bis.doc.gov*.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on August 12, 2004, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section (10)(d)), that the portion of the meeting dealing with trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. section 552b(c)(4) and the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3).

The remaining portions of the meeting will be open to the public. For more information, call Lee Ann Carpenter at (202) 482–2583.

Dated: August 24, 2004.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 04–19593 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082304A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet September 12–17, 2004. The Council meeting will begin on Tuesday, September 14, at 8 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. to 9 a.m. on Tuesday, September 14 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Hyatt Regency Islandia, 1441 Quivira Road, San Diego, CA 92109; telephone: 619–224–1234.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks, Introductions
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

B. Administrative Matters

1. Approval of Council Meeting Minutes
2. NMFS Revision of National Standard 1
3. Update of Council Operating Procedures (COPs) and Statement of Organization, Practices, and Procedures (SOPPs) Documents
4. Council Communication Plan
5. Legislative Matters
6. Fiscal Matters
7. Interim Appointments to Advisory Bodies
8. Workload Priorities and Draft November 2004 Council Meeting Agenda

C. Groundfish Management

1. California Recreational Fishery Survey (CRFS) Program Review
2. Initial Consideration of Status of Fisheries and Inseason Adjustments
3. Consideration of Limited Refinements to the 2005/06 Fishery Management Specifications
4. Red Light/Green Light Threshold for Optimum Yield Adjustments
5. NMFS Report
6. Groundfish Essential Fish Habitat Environmental Impact Statement (EIS) - Preliminary Alternatives
7. Off-Year Science Improvements Report
8. Terms of Reference for Groundfish Rebuilding Plan Review
9. Final Consideration of 2004 Inseason Adjustments
10. Expansion of Vessel Monitoring System
11. Trawl Individual Quota EIS

D. Salmon Management

1. Salmon Fishery Update
2. Salmon Methodology Review
3. Fishery Management Plan (FMP) Amendment Update

E. Marine Protected Areas

1. Guidelines for Review of Marine Reserves Issues
2. Update on Miscellaneous Marine Protected Areas Activities
3. Krill Harvest Ban Proposal

F. Pacific Halibut Management

1. Pacific Halibut Fishery Update
2. Proposed Changes to the Catch Sharing Plan and Annual Regulations
3. Review of Pacific Halibut Bycatch Estimates for Use by the International Pacific Halibut Commission

G. Habitat

Current Habitat Issues

H. Highly Migratory Species (HMS) Management

1. NMFS Report
2. FMP Amendment for Limited Entry in the High Seas Pelagic Longline Fishery
3. Stock Assessments for Albacore and Blue Fin Tuna

I. Coastal Pelagic Species Management

1. NMFS Report
2. STAR Panel Report
3. FMP Amendment—Sardine Allocation

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, SEPTEMBER 12, 2004	
Groundfish Management Team	1 p.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

MONDAY, SEPTEMBER 13, 2004	
Council Secretariat	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Essential Fish Habitat EIS – Joint Session ..	9:30 a.m.
National Standard 1 Briefing – Joint Session	11 a.m.
Legislative Committee ..	11 a.m.
Budget Committee	1 p.m.
Enforcement Consultants	4 p.m.
TUESDAY, SEPTEMBER 14, 2004	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Habitat Committee	10:30 a.m.
Enforcement Consultants	As necessary
WEDNESDAY, SEPTEMBER 15, 2004	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Highly Migratory Species Advisory Subpanel	8 a.m.
Enforcement Consultants	As necessary
THURSDAY, SEPTEMBER 16, 2004	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Enforcement Consultants	As necessary
FRIDAY, SEPTEMBER 17, 2004	
Council Secretariat	7 a.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	As necessary
Groundfish Management Team	8 a.m.
Enforcement Consultants	As necessary

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during these meetings. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least 5 days prior to the meeting date.

Dated: August 24, 2004.

Alan D. Risenhoover,

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

[FR Doc. E4–1951 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

August 23, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 59927, published on October 20, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 23, 2004.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 14, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on August 30, 2004, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month limit [1]
Sublevel in Group II 633/634/635	1,650,784 dozen of which not more than 968,910 dozen shall be in Categories 633/634 and not more than 858,578 dozen shall be in Category 635.

Category	Twelve-month limit [1]
Within Group II Sub-group 333/334/335	349,314 dozen of which not more than 187,340 dozen shall be in Category 335.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–1952 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa Requirements to Include the Electronic Visa Information System for Certain Cotton, Wool, and Man-Made Fiber Apparel Produced or Manufactured in the Republic of Maldives

August 23, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection amending visa requirements.

EFFECTIVE DATE: September 7, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In exchange of notes dated January 12, 2004 and August 4, 2004, the Governments of the United States and the Republic of Maldives agreed to amend the existing Visa Arrangement for cotton, wool, and man-made fiber apparel. The amended visa Arrangement establishes new provisions for the Electronic Visa Information System (ELVIS), but continues the requirement for the paper visa. This notice amends, but does not cancel, the notice and letter to the Commissioner of Customs, as amended, published in the Federal Register on August 24, 1982. (See 47 FR 36879.)

A description of the textile and apparel categories in terms of categories within the Harmonized Tariff Schedule of the United States is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 69 FR 4926, published on February 2, 2004).

Goods integrated into GATT 1994 in Stages II and III by the United States will not require a visa or ELVIS transmission (see Federal Register notices 63 FR 53881, published on October 7, 1998 and 66 FR 63225, published on December 5, 2001).

Interested persons are advised to take all necessary steps to ensure that textile products entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner, Bureau of Customs and Border Protection.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 23, 2004.

Commissioner,

Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on August 18, 1982, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Uruguay Round Agreement on Textiles and Clothing, and the exchange of notes on January 12, 2004 and August 4, 2004, between the Governments of the United States and the Republic of Maldives; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit entry into the customs territory of the United States (i.e. the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber apparel, as detailed in the exchange of notes dated January 12, 2004 and August 4, 2004, and exported on or after September 7, 2004, for which the Government of the Republic of Maldives has not issued an appropriate export visa and Electronic Visa Information System (ELVIS) transmission fully described below. Should additional categories, part-categories or merged categories become subject to import quotas, the entire category(s), part-category(s) or merged category(s) shall be included in the coverage of this Arrangement. The categories covered by this directive are 237, 239, 330-359, 431-459, and 630-659. Integrated products do not require an ELVIS transmission or a visa.

A visa must accompany each shipment of the aforementioned textile products. The original visa in blue ink shall be stamped on the front of the original commercial invoice.

Visa Requirements

Each visa stamp will include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (The code for Maldives is MV), and a six digit numerical serial number identifying the shipment; e.g., 4MV123456.

2. The date of issuance. The date of issuance shall be the day, month, and year on which the visa was issued.

3. The original signature of the issuing official authorized by the Government of the Republic of Maldives.

4. The correct category(s), merged category(s), part category(s), quantity(s), and units of quantity in the shipment in the units(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States (HTSUS), e.g., ''Cat. 340-510 DZ''.

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

The Bureau of Customs and Border Protection shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity are missing, incorrect, illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

Quantities shall be those determined by the Bureau of Customs and Border Protection.

If the visa is not acceptable then a new visa must be obtained from the Government of the Republic of Maldives or a visa waiver may be issued by the U.S. Department of Commerce at the request of the Government of the Republic of Maldives and presented to the Bureau of Customs and Border Protection before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. Visa waivers will only be issued for classification purposes or for one-time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed invoice is deficient, the Bureau of Customs and Border Protection will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

Only the actual quantity in the shipment and the correct category will be charged to the restraint level.

ELVIS Requirements:

A. Each ELVIS transmission shall include the following information:

i. The visa number: The visa number shall be in the standard nine digit letter format beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (The code for Maldives is MV), and a six digit numerical serial number identifying the shipment; e.g., 4MV123456.

ii. The date of issuance: The date of issuance shall be the day, month and year on which the visa was issued.

iii. The correct category(s), merged category(s), part category(s), quantity(s), and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States. Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

iv. The quantity of the shipment in the correct units of quantity

v. The manufacturer ID number (MID)

B. Entry of a shipment shall not be permitted:

I. if an ELVIS transmission has not been received for the shipment from the Government of the Republic of Maldives;

II.if the ELVIS transmission for that shipment is missing any of the following information:

i) visa number

ii) category, part category, or merged category

iii) quantity

iv) unit of measure

v) date of issuance

vi) manufacturer ID number

III. if the ELVIS transmission for the shipment does not match the information supplied by the importer, or the Customs broker acting as an agent on behalf of the importer, with regard to any of the following:

i) visa number

ii) category, part category, or merged category

iii) unit of measure

IV. If the quantity being entered is greater than the quantity transmitted.

V. If the visa number has previously been used, except in the case of a split shipment, or cancelled, except when entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the Government of the Republic of Maldives is required before a shipment that has been denied entry for one the circumstances mentioned above will be released.

D. Visa waivers will only be accepted if the shipment qualifies for a one-time special purpose shipment that is not part of an ongoing commercial enterprise. A visa waiver may be issued by the Department of Commerce at the request of the Government of the Republic of Maldives. A visa waiver only waives the requirements to present an ELVIS transmission at the time of entry, and does not waive any quota requirements.

E. In the event of a systems failure, shipments will not be released for twenty-four hours or 1 calendar day. If system failure exceeds twenty-four hours or 1 calendar day, for the remaining period of the system failure the Bureau of Customs and Border Protection will release shipments on the basis of the visa data provided by the Government of the Republic of Maldives. The Republic of Maldives will retransmit all data that was affected by the systems failure when the system is functioning normally.

Shipments not requiring visas or ELVIS transmission:

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. $800 or less do not require a visa or an ELVIS transmission for entry and shall not be charged to Agreement levels.

Other Provisions:

The visa stamp remains unchanged.

Goods integrated into GATT 1994 in Stages II and III by the United States will not require a visa or ELVIS transmission (see Federal Register notices 63 FR 53881, published on October 7, 1998 and 66 FR 63225, published on December 5, 2001, respectively). A visa and ELVIS transmission will continue to be required for non-integrated products.

The Committee for the Implementation of Textile Agreements has determined that this action fall with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–1953 Filed 8–26–04; 8:45 am]

BILLING CODE 3510–Dr–S

DEPARTMENT OF EDUCATION

RIN 1820–ZA36

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priorities for knowledge dissemination and utilization projects.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes priorities for three knowledge dissemination and utilization projects under the National Institute on Disability and Rehabilitation Research (NIDRR) Disability and Rehabilitation Research Projects (DRRP) Program. The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2005 and later years. We take this action to focus attention on an identified national need. We intend these priorities to improve rehabilitation outcomes for individuals with disabilities.

DATES: We must receive your comments on or before September 27, 2004.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6030, Potomac Center Plaza, Washington, DC 20202–2600. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov*.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 245–7462.

If you use a telecommunications device for the deaf (TDD), you may call the the Federal Information Relay Service (FIRS) at 1–800–877–8339 or via Internet: *donna.nangle@ed.gov*.

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

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority or topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these priorities in Room 6032, 550 12th Street, SW., Potomac Center Plaza, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of aid, please contact the

person listed under **FOR FURTHER INFORMATION CONTACT**.

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does **not** solicit applications. In any year in which we choose to use any of these proposed priorities, we invite applications through a notice in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) Awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/*.

These proposed priorities are in concert with NIDRR's 1999-2003 Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support the activities to be conducted under these proposed priorities, specific references are included for the topics presented in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html*.

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP Program is to plan and conduct research, demonstration projects, training, and related activities that help to maximize the full inclusion and integration of individuals with disabilities into society and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

Under the DRRP program, we define a development activity as using knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes. We define a dissemination activity as the systematic distribution of information or knowledge through a variety of ways to potential users or beneficiaries. We define a technical assistance activity as the provision of expertise or information for use in problem-solving.

Background

Priorities

Knowledge Dissemination and Utilization (KDU) projects ensure widespread distribution, in usable formats, of practical scientific and technological information generated by research, development, and demonstration projects. The effective dissemination and utilization of disability and rehabilitation research results are critical to achieving NIDRR's mission. Research findings can improve the quality of life of people with disabilities and further their full inclusion into society. These benefits are feasible only if the findings and technologies are available to, known by, and accessible to potential users.

NIDRR is particularly interested in ensuring that information to be disseminated is of high quality and is based on scientifically rigorous research and development and that potential users have the information they need to judge the quality of research and development findings and products and the relevance of these findings and products to their particular needs. End-users with limited scientific training, in particular, may need assistance in order to understand competing research claims or determine the relevance of particular findings to their individual situations. In addition, given the nature of scientific study, practical information often is based on cumulative knowledge, not upon the results of any one study. Therefore, we encourage potential applicants to examine procedures used by such organizations as the Campbell Collaboration (*http://www.campbellcollaboration.org/*), the Cochrane Collaboration (*http://www.cochrane.org/*), and the Department of Education What Works Clearinghouse (*http://www.w-w-c.org/*) when designing synthesis and dissemination activities.

Proposed Priorities

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund up to three DRRPs to develop dissemination methods and provide technical assistance that focus on innovative knowledge sharing solutions to improve the lives of persons with disabilities. The goal of the projects is to provide end-users with the information they need to make choices based on high-quality scientific research and development. Under each of these topics, the KDU project must:

(1) Identify topic areas and target audiences, which must include people with disabilities and their families;

(2) Develop standards to guide the systematic review and synthesis of disability and rehabilitation research and development studies;

(3) Identify or develop effective outreach strategies for the target audiences;

(4) Develop research syntheses in selected topic areas and make this information available, in preferred formats, to the target audiences; and

(5) Develop cost-effective outreach strategies to provide target audiences with research-based information, and determine whether and how the information is used.

In carrying out these project requirements, in consultation with the NIDRR project officer, each project must:

- Involve, as appropriate, individuals with disabilities or their family members, or both, in all aspects of the design and development of dissemination activities;
- Demonstrate how the project will yield measurable results for people with disabilities; and

• Identify specific performance targets and propose outcome indicators, along with timelines to reach these targets.

A project must focus on one of the following priority topic areas:

(a) *Dissemination Using the Mainstream Media:* The purpose of a project under this topic area is to improve dissemination of disability and rehabilitation research and development information via the mainstream media and the disability press. Chapter 8 of the Plan calls upon NIDRR to ''address general audiences that influence the opportunities available to people with disabilities. These general audiences include: Employers, manufacturers, educators at all levels, economic development and planning personnel, service establishments, the media and policy makers at local, state and national levels''. Dissemination of research and development information through the mainstream media—*e.g.*, newspapers, popular magazines, radio, television, and internet news and information sites—has the promise of being an effective means of communication to these diverse audiences. To provide information that ultimately will be used by the media, the grantee must work with representatives from the mainstream media and with researchers to establish strategies for providing timely information on research and development activities and findings to the media.

The reference to this topic may be found in the Plan, Chapter 8, Knowledge Dissemination and Utilization, and Chapter 10, Enhancing NIDRR's Management of Research.

(b) *International Exchange of Information and Experts in Rehabilitation and Independent Living:* The purpose of a project under this topic area is to improve the exchange of disability and rehabilitation research and development information between the United States and other countries in order to develop new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, share information found useful in other nations, and increase the skill levels of rehabilitation personnel. This project must:

• Develop innovative methods for compiling and exchanging information between the United States and other nations on rehabilitation research and development, as well as information on disability policies that maximize the full inclusion, social integration, employment, and independent living of individuals of all ages with disabilities.

• Provide targeted outreach to and obtain insight from researchers; consumers; and voluntary, non-profit, and philanthropic organizations that are operating programs related to disability and rehabilitation research in other nations.

• Conduct at least one rehabilitation research information conference per funding cycle involving participants from the United States and other countries to provide state-of-the-art information on international rehabilitation research efforts and policies that affect people with disabilities.

• Conduct an international exchange of researchers and technical assistance experts between other countries and the United States to provide firsthand experiences in cross-cultural communication and to form alliances for collaborative research or information sharing.

The reference to this topic may be found in the Plan, Chapter 10, Enhancing NIDRR's Management of Research.

(c) *Innovative KDU for Disability and Professional Organizations and Stakeholders:* The purpose of a project under this topic is to disseminate information on disability and rehabilitation research and development findings to a particular constituency by using organizations that serve that constituency as intermediaries. Such organizations, because they have established strategies for providing information to their constituencies—*e.g.*, conferences, newsletters, and workshops—may represent an effective means of dissemination. The project must produce information digests that will be suitable for further dissemination through the partner organizations. The project must be knowledgeable about the target audiences represented by the organizations and must develop innovative means of communication with the publics served by the organizations. The project must serve as an information conduit for interactive discussions with the organizations that will help inform future NIDRR research priorities and disseminate the findings of NIDRR-sponsored research.

The reference to this topic may be found in the Plan, Chapter 8, Knowledge Dissemination and Utilization, and Chapter 10, Enhancing NIDRR's Management of Research.

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priorities, we have determined that the benefits of the proposed priorities justify the costs.

Summary of Potential Costs and Benefits

The potential costs associated with these proposed priorities are minimal, while the benefits are significant. Grantees may anticipate costs associated with completing the application process in terms of staff time, copying, and mailing or delivery. The use of e-Application technology reduces mailing and copying costs significantly.

The benefits of the DRRP Program have been well established over the years. Similar projects have been completed successfully and have produced findings that help improve the lives of individuals with disabilities. These proposed priority will generate new strategies for disseminating findings from disability and rehabilitation research and development that will improve the full integration of individuals with disabilities into society.

Applicable Program Regulations: 34 CFR part 350.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*. To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 762(g) and 764(a).

Dated: August 24, 2004.

Troy R. Justesen,

Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E4–1955 Filed 8–26–04; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Request for Proposals for the Help America Vote College Poll Worker Recruitment Program

AGENCY: Election Assistance Commission (EAC).

ACTION: Notice of Request for Applications—Federal Grant Opportunity.

SUMMARY: Pursuant to Sections 501–503 of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC or Commission) is hereby publishing in the **Federal Register** a Request for Proposals for the Help America Vote College Poll Worker Recruitment Program.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Phone: Karen Lynn-Dyson at (202) 566–3100 or 1–866–747–1471 (toll-free).

Federal Agency Name: United States Election Assistance Commission.

Funding Opportunity Title: Help America Vote College Program.

Announcement Type: Competitive Grant—Initial.

Funding Opportunity Number: EAC—04—001.

CFDA Number: 90.400.

Due Date: Applications are due by Thursday, September 9, 2004.

I. Funding Opportunity Description

This announcement is covered under the Help America Vote Act of 2002, Public Law (Pub. L.) 107–252, Title V. Provisions under this title allow the U.S. Election Assistance Commission to award grants for the development of a program to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants.

Project funds must be used for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue.

Purpose of the U.S. Election Assistance Commission

The U.S. Election Assistance Commission (''EAC'' or ''Commission'') was established by the Help America Vote Act of 2002 (''HAVA''). Central to its role, the Commission serves as a national clearinghouse and resource for information and review of procedures with respect to the administration of federal elections.

HAVA requires the EAC to, among other things:

- Generate technical guidance on the administration of federal elections.
- Produce voluntary voting systems guidelines.
- Research and report on matters that affect the administration of federal elections.
- Otherwise provide information and guidance with respect to laws, procedures, and technologies affecting the administration of federal elections.
- Administer payments to States to meet HAVA requirements.
- Provide grants for election technology development and for pilot programs to test election technology.
- Develop a national program for the testing, certification, and decertification of voting systems.
- Maintain the national mail voter registration form that was developed in accordance with the National Voter Registration Act of 1993 (''NVRA''), report to Congress every two years on the impact of the NVRA on the administration of federal elections, and provide information to States on their responsibilities under that law.
- Audit entities who receive federal funds authorized by HAVA from the General Services Administration or the EAC.
- Submit an annual report to Congress describing EAC activities for the previous fiscal year.

Additionally, the EAC is required, not later than one year after the appointment of its members, to develop a program to be known as the ''Help America Vote College Program.''

Help America Vote College Program

The EAC is seeking proposals which will assist the Commission in developing and implementing the Help America Vote College Program (''College Program'').

The purpose of the College Program is to encourage students enrolled at institutions of higher education (including community colleges) to assist state and local governments in the administration of elections by serving as nonpartisan poll workers or assistants, and to encourage state and local governments to use the services of the students participating in the College Program.

While laws regarding eligibility for poll worker service vary somewhat from state to state, in all states, poll worker service requires dedication. Poll workers are required to attend a training session conducted by the local election jurisdiction prior to Election Day. Most training sessions occur in the month prior to Election Day (*i.e.*, October for this project period), and generally last, on average, 2 to 3 hours. Through coordination between the local election jurisdiction and the prospective grantee, on-site poll worker training may be arranged.

Applicants also should be aware that poll workers generally are required to be at polling locations to help set up prior to the opening of polls, and should plan to stay at least 45 minutes after the close of polls on Election Day. In some jurisdictions options to split a shift are available. Applicants should understand that college poll workers may be required to remain at the polling location the entire day on Election Day. It should be noted that poll workers are paid a stipend both for attending training and for their service on Election Day. The stipend amounts, paid by the election jurisdiction, vary widely.

Applicants should be aware that most states require that poll workers be registered voters in the state in which they serve. Other states require that poll workers be registered voters in the county in which they serve. In some cases, however, students are exempt from these requirements and may serve under various titles such as assistants or interpreters.

In making grants under the College Program, the EAC requires that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each grant recipient is governed in a balanced manner which does not reflect any partisan bias.

Applicants should be informed that the EAC will require all grant recipients to submit a final written report discussing outcomes and/or related qualitative data, which the EAC will use to develop recommendations to the U.S. Congress, States and local governments about future involvement of college students as poll workers and/or ''best practices'' information.

General Guidelines for Application

- Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished, given the description and purpose detailed above regarding the College Program;
- Describe any unusual features of the project such as design or technological

innovations, reductions in cost or time, or extraordinary social and community involvement;

• Provide quantitative projections of the accomplishments to be achieved for each function or activity in such terms as the number of college students expected to participate and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

• Identify the results and benefits to be derived. For example, describe how the activities that your organization undertakes will promote the participation of college students to work as poll workers or assistants during the upcoming November 2nd general election.

• To the extent possible, include information on meeting the poll worker eligibility requirements for the jurisdiction(s) covered by the student population described in the application;

• To the extent possible, include information showing current involvement and/or support from the local election administrator(s) of the jurisdiction(s) covered by the student population described in the application or ways in which such involvement and/or support will be developed during the project period;

• Describe for all functions or activities identified in the application and, if applicable, cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others;

• Present a budget with reasonable project costs, appropriately allocated across component areas, and sufficient to accomplish the objectives, such as documentation of the dollar amount requested, as well as a description of the fiscal controls and accounting procedures that will be used to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program announcement.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Priority Area Funding: $200,000–$645,750.

Anticipated Number of Awards: 1–50.

Ceiling on Amount of Individual Awards: $150,000 per project and budget period.

Floor on Individual Award Amounts: $10,000 per project and budget period.

Average Projected Award Amount: Unknown.

Project Periods for Awards: 3–4 month project and budget periods.

III. Eligibility Information

1. Eligible Applicants

State controlled institutions of higher education; private institutions of higher education; community colleges; non-profit organizations, other than institutions of higher education; and faith-based organizations.

All applications that are developed jointly by more than one agency or organization must identify only one organization as the lead organization and the official applicant. The other participating organizations can be included as co-participants, sub-grantees, or subcontractors.

Any non-profit organization submitting an application must include proof of its non-profit status in its application at the time of submission. The non-profit organization can accomplish this by providing any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Applicants are cautioned that the ceiling for individual awards is $150,000. Requests that exceed the $150,000 threshold will be considered non-responsive and will not be eligible for funding under this announcement.

Applications that are developed jointly by more than one agency or organization that fail to identify only one organization as the lead organization and the official applicant will be considered non-responsive and returned without review.

Pre-award costs are not allowable charges to this program. Applications that include pre-award costs with their submission will be considered non-responsive and will not be eligible for funding under this announcement.

Construction is not an allowable activity or expenditure under this program. Applications that propose construction projects or expenditures will be considered non-responsive and will not be eligible for funding under this announcement.

2. Cost Sharing or Matching

None.

3. Other (If Applicable)

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Applicants are cautioned that the ceiling for individual awards is $150,000. Requests that exceed the $150,000 threshold will be considered non-responsive and will not be eligible for funding under this announcement.

Applications that are developed jointly by more than one agency or organization that fail to identify only one organization as the lead organization and the official applicant will be considered non-responsive and returned without review.

Pre-award costs are not allowable charges to this program. Applications that include pre-award costs with their submission will be considered non-responsive and will not be eligible for funding under this announcement.

Construction is not an allowable activity or expenditure under this program. Applications that propose construction projects or expenditures will be considered non-responsive and will not be eligible for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package

U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attention: Karen Lynn-Dyson, Phone: (202) 566–3100; Fax: (202) 566–1389.

Application forms and certifications may also be downloaded from the ''Help America Vote College Program'' link at the following Internet address: *http://www.eac.gov.*

2. Content and Form of Application Submission

The Application

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the project description/narrative must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or entire articles of incorporation.

You may view this grant announcement via *http://www.grants.gov.* However, you may not submit an electronic application for this grant announcement. Rather, the EAC requires that applications for this grant announcement be submitted—not later than September 9, 2004—in paper format only by mailing or hand delivering a hard copy of the application to the following address:

U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attention: Karen Lynn-Dyson, Program Director. Any questions regarding this announcement can be directed to Karen Lynn-Dyson at (202) 566–3100 or by e-mail at *klynndyson@eac.gov.*

Please note that to use grants.gov, you, as the applicant, must have a DUNS Number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Application Requirements

A complete application consists of the following items:

—Application for Federal Assistance (SF 424, REV 4–92);
—Budget Information—Non-Construction Programs (SF 424A, REV 4–92);
—Budget justification for Section B—Budget Categories;
—Assurances—Non-Construction Programs (Standard Form 424B, REV 4–92);
—Proof of non-profit status;
—Project description/narrative;
—Any appendices/attachments;
—Certification regarding lobbying.

The above forms and certifications may be found at the ''Help America Vote College Program'' link located at *http://www.eac.gov*.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants.'' The forms are located on the Web at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Application Format

Length: Applications must not exceed 25 pages.

3. Submission Dates and Times

The EAC requires that applications for this grant announcement be submitted—not later than September 9, 2004—in paper format only by mailing or hand delivering a hard copy of the application, as instructed below. All applications will be evaluated upon receipt and initial screening.

Deadline: Mailed applications shall be considered as meeting the announced deadline if they are received on or before the deadline time and date at the following address: U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attention: Karen Lynn-Dyson, Program Director, Help America Vote College Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 5 p.m., e.s.t., at the following address: U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attention: Karen Lynn-Dyson, Program Director, Help America Vote College Program.

The closing time and date for receipt of applications is 5 p.m. (Eastern Standard Time) on Thursday, September 9, 2004. Mailed or hand carried applications received after 5 p.m. e.s.t. on the closing date will be classified as late.

Late applications: Applications which do not meet the criteria above are considered late applications. EAC shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: EAC may extend application deadlines when circumstances such as Acts of God (floods, hurricanes, *etc.*) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the U.S. Election Assistance Commission.

4. Intergovernmental Review

State Single Point of Contact (SPOC):

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. As of October 1, 2003, the following jurisdictions have elected to participate in the Executive Order process:

Arkansas, California, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, District of Columbia, Puerto Rico, American Somoa, Guam, North Mariana Islands, and the Virgin Islands.

Applicants from these jurisdictions should determine the SPOC for that jurisdiction, and contact their SPOC as soon as possible to alert them of the prospective application and receive instructions. Applicants must submit any required material to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has up to 60 days from the application deadline to comment on proposed new or competing continuation awards.

Applicants from a jurisdiction that does not participate in the Executive Order process, and which have met the eligibility requirements of this program, are still eligible to apply for a grant even

if a State, Territory, Commonwealth, *etc.*, does not have a SPOC.

A list of the Single Points of Contact for each State and Territory can be obtained from the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

5. Funding Restrictions

Applicants are cautioned that the ceiling for individual awards is $150,000.

Applications exceeding the $150,000 threshold will be considered non-responsive and will not be eligible for funding under this announcement.

Pre-award costs are not allowable charges to this program. Applications that include pre-award costs with their submission will be considered non-responsive and will not be eligible for funding under this announcement.

Construction is not an allowable activity or expenditure under this program. Applications that propose construction projects or expenditures will be considered non-responsive and will not be eligible for funding under this announcement.

6. Other Submission Requirements

Submission by Mail: An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 5 p.m. Eastern Standard Time on or before the closing date, which is Thursday, September 9, 2004. Applications should be mailed to: U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attention: Karen Lynn-Dyson, Program Director, Help America Vote College Program.

Hand Delivery: An applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 5 p.m. Eastern Standard Time on or before the closing date, which is Thursday, September 8, 2004. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 5 p.m., Monday through Friday. Applications may be delivered to: U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attention: Karen Lynn-Dyson, Program Director, Help America Vote College Program.

V. Application Instructions

Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A—Page 2 and Certifications/Assurances are contained in the application package that can be accessed as mentioned earlier in this announcement. Please prepare your application in accordance with the following instructions:

SF 424, Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Please indicate that you are applying for new or implementation funds.

Item 1. ''Type of Submission''—Preprinted on the form.

Item 2. ''Date Submitted'' and ''Applicant Identifier''—Date application is submitted to EAC and applicant's own internal control number, if applicable.

Item 3. ''Date Received By State''—State use only (if applicable).

Item 4. ''Date Received by Federal Agency''—Leave blank.

Item 5. ''Applicant Information.''

''Legal Name''—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

''Organizational Unit''—Enter the name of the primary unit within the applicant's organization that will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

''Address''—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. Box number unless both must be used in mailing.

''Name and telephone number of the person to be contacted on matters involving this application (give area code)''—Enter the full name and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. ''Employer Identification Number (EIN)''—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service.

Item 7. ''Type of Applicant''— Self-explanatory (*i.e.*, state controlled institution of higher education; private institution of higher education; community college; non-profit organization, other than institutions of higher education; or faith-based organizations).

Item 8. ''Type of Application''—Preprinted on the form.

Item 9. ''Name of Federal Agency''—Preprinted on the form.

Item 10. ''Catalog of Federal Domestic Assistance Number and Title''—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title.

Item 11. ''Descriptive Title of Applicant's Project''—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. ''Areas Affected by Project''—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. ''Proposed Project''—Enter the desired start date for the project and projected completion date.

Item 14. ''Congressional District of Applicant/Project''—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If Statewide, a multi-State effort, or nationwide, enter ''00.''

Item 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 3–4 month project period, the total amount requested.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15b–e. Not Applicable.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. ''Is Application Subject to Review By State Executive Order 12372 Process? Yes.''—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate

SPOC from the listing provided online at *http://www.whitehouse.gov/omb/grants/spoc.html.* The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. ''Is Application Subject to Review By State Executive Order 12372 Process? No.''—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. ''Is the Applicant Delinquent on any Federal Debt?''— Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. ''To the best of my knowledge and belief, all data in this application/pre-application 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.''—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. ''Typed Name of Authorized Representative, Title, Telephone Number''—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. ''Signature of Authorized Representative'' —Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. ''Date Signed''—Enter the date the application was signed by the authorized representative.

SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, and F are to be completed. Sections C, D and E do not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering the total project period of 4 months or less.

Section A—Budget Summary: This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs (none for these projects), including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories: This budget, which includes the Federal as well as non-Federal funding for the proposed project (none for these projects), covers the total project period of 4 months or less. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal [none]) by object class category.

A separate budget justification should be included to fully explain and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff for the project period. Do not include the costs of consultants; this should be included on line 6h, ''Other.''

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual's project period salary, and the cost to the project of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, *etc.*

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, ''Other.''

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its sub grantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) Procurement contracts (except those which belong on other lines such as equipment, supplies, *etc.*), and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, ''Other.''

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or the entire program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: Insurance; medical and dental costs; non-contractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as ''miscellaneous'' and ''honoraria'' are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter ''none.'' Generally, this line should be used when the applicant (except local governments) has a current indirect cost

rate agreement approved by the Department of Health and Human Services or another Federal agency.

Justification: Enclose a copy of the indirect cost rate agreement.

Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—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.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources: Not applicable.

Section D—Forecasted Cash Needs: Not applicable.

Section E—Budget Estimate of Federal Funds Needed for Balance of the Project: Not applicable. (This section should only be completed if the total project period exceeds 17 months.)

Section F—Other Budget Information.

Direct Charges—Line 21. See Form Instructions.

Indirect Charges—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.

VI. Application Review Information

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

1. Criteria (Total Possible Points: 105)

Criterion 1: Approach (Maximum 40 Points)

Applicants will be evaluated based on the extent to which they present a plan that (1) clearly reflects an understanding of the characteristics of the targeted population (college students) and methods for successfully motivating such students to participate as poll workers or other election administration assistants on Election Day; (2) provides appropriate services that directly address the goals of this program; (3) provides services that are appropriate and feasible; and (4) can be reliably evaluated.

- Applications will be evaluated based on the extent to which they outline a plan of action pertaining to the scope and detail on how the proposed work will be accomplished for each project, and include a definition of the goals and specific measurable objectives for the project (15 points);
- Applications will be evaluated based on the extent to which they describe any unusual features of the project, such as design or technological innovation, reductions in cost or time, or extraordinary social and community involvement (10 points);
- Applications will be evaluated based on the extent to which they describe the products to be developed during the implementation of the proposed project, such as brochures and promotional materials, data collection instruments, internet applications, reports, evaluation results, and a dissemination plan for conveying the information (5 points);
- Applications will be evaluated based on the extent to which they cite factors which might accelerate or decelerate the work and provide reasons for taking this approach as opposed to others (5 points);
- Applications will be evaluated based on the extent to which they include information on meeting the poll worker eligibility requirements for the jurisdiction(s) covered by the student population described in the application (2.5 points);
- Applications will be evaluated based on the extent to which they show current involvement and/or support from the local election administrator(s) and other key stakeholders of the jurisdiction(s) covered by the student population described in the application or ways in which such involvement and/or support will be developed during the proposed project period (2.5 points).

Criterion 2: Results or Benefits Expected (Maximum 30 Points)

Applications will be evaluated based on the extent to which they discuss the criteria to be used to evaluate the results, explain the methodology that will be used to determine if the needs identified and discussed are being met, and the results and benefits identified are being achieved.

- Applications will be evaluated based on the extent to which they identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and success of the project. For example, the applicant may provide a description of how the proposed project will be evaluated to determine the extent to which it has achieved its stated goals and objectives; the applicant may also provide a description of methods of evaluation that include the use of performance measures that are clearly related to the intended outcome of the project; (15 points).
- Applications will be evaluated based on the extent to which they provide for each project, when possible, a quantitative description of the accomplishments to be achieved and, when quantification is not possible, a list of activities, in chronological order, to show the schedule of accomplishments and their target date; (10 points).
- Applications will be evaluated based on the extent to which they provide information regarding how the project will build on current research, evaluation and/or best practices to contribute to increased knowledge and understanding of the problems, issues, or effective strategies and practices as they relate to college students participating as poll workers or other election administration assistants; (5 points).

Criterion 3: Organizational Profile (Maximum 25 Points)

Applications will be evaluated based on the extent to which they identify how the applicant organization (or the unit within the organization that will have responsibility for the project) is structured, the types and quantity of services, and the management capabilities it possesses. Applications will be evaluated based on the extent to which the applicant demonstrates a capacity to implement the proposed project including (1) Experience with similar projects; (2) experience with the target population; (3) qualifications and experience of the project leadership; (4) experience and commitment of any proposed consultants and subcontractors; and (5) appropriateness of the organizational structure, including its management information system, to carry out the project.

- Application will be evaluated based on the extent to which they demonstrate experience with similar projects and the target population (10 points);
- Application will be evaluated based on the extent to which they identify the background of the project director and key project staff (such as the inclusion of name, address, and training, educational background and other qualifying experience) and the extent to which they demonstrate that the experience of the organization is such that the applicant may effectively and efficiently administer this project and produce a usable final product. For example, this can include providing brief resumes of key project staff (10 points);

• Applications will be evaluated based on the extent to which they provide a brief background description of how the applicant organization is organized (such as an organizational chart that illustrates the relationship of the project to the current organization) the types and quantity of services it provides, and the research and management capabilities it possesses (5 points).

Criterion 4: Budget and Budget Justification (Maximum 10 Points)

Applications will be evaluated based on the extent to which the applicant presents a budget with reasonable project costs, appropriately allocated across component areas, and sufficient to accomplish the objectives, such as the inclusion of a justification for and documentation of the dollar amount requested.

(1) Applications will be evaluated based upon the extent to which they include a narrative budget justification that describes how the categorical costs are derived and a discussion of the reasonableness and appropriateness of the proposed costs. Line item allocations and justifications are required for Federal funds.

All necessary salary information must appear on the signed original application for the EAC. Applicants, however, have the option of omitting the Social Security Numbers and specific salary rates of the proposed project personnel from the two copies submitted with the original applications to EAC. For purposes of the outside review process, applicants may elect to summarize salary information on the copies of their application.

• Applications will be evaluated based on the extent to which they discuss and justify the costs of the proposed project as being reasonable and programmatically justified in view of the activities to be conducted and the anticipated results and benefits (5 points) and;

• Applications will be evaluated based on the extent to which they describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program announcement (5 points).

2. Review and Selection Process

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding. Applications which pass the initial EAC screening will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria. The results of these reviews will assist the Commissioners of the EAC in considering competing applications. The scores determined by the Independent Review Panel will weigh heavily in funding decisions made by the EAC, but will not be the only factors considered. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

VII. Award Administration Information

1. Award Notices

The successful applicant will be notified through the issuance of a Financial Assistance Award. The Financial Assistance Award will be signed by the Help America Vote College Program Director and transmitted via postal mail.

Organizations whose applications will not be funded will be notified in writing by the U.S. Election Assistance Commission.

2. Administrative and National Policy Requirements

The EAC has not promulgated any such requirements at this time. It is expected that general administrative and national policy requirements will be followed, and the EAC will seek guidance on these requirements from other Federal agencies, such as the U.S. Department of Health and Human Services.

3. Reporting

Programmatic Reports: Monthly.

Financial Reports: At end of project period (4-month maximum).

Special Reporting Requirements: None.

All grantees are required to submit monthly program reports to the EAC; grantees are also required to submit expenditure reports using the required financial standard form (SF–269) which is located on the Internet at: *http://forms.psc.gov/forms/sf/SF–269.pdf*. A suggested format for the program report will be sent to all grantees after the awards are made.

VIII. Agency Contacts

Program Office Contact: Karen Lynn-Dyson, Program Director, Help America Vote College Program, U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Phone: (202) 566–3100; Fax (202) 566–1389; e-mail: *klynndyson@eac.gov.*

IX. Other Information

Additional information about the U.S. Election Assistance Commission and its purpose can be found on the following Internet address: *http://www.eac.gov*.

Thank you for your interest in improving the voting process in America.

Dated: August 24, 2004.

Ray Martinez, III,

Commissioner, Election Assistance Commission.

[FR Doc. 04–19632 Filed 8–26–04; 8:45 am]

BILLING CODE 6820–MP–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the DOE Commercial Package Air Conditioner and Heat Pump Test Procedure to Mitsubishi Electric (Case No. CAC–008)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. CAC–008) granting a Waiver to Mitsubishi Electric and Electronics USA, Inc. (MEUS) from the existing Department of Energy (DOE or Department) commercial package air conditioner and heat pump test procedure for its City Multi products.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611, E-mail: *Michael.Raymond@ee.doe.gov*; or Thomas DePriest, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507, E-mail: *Thomas.DePriest@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: In accordance with Title 10, Code of Federal Regulations Part 431.29(f)(4), notice is hereby given of the issuance of

the Decision and Order as set out below. In the Decision and Order, MEUS is granted a Waiver from the Department of Energy commercial package air conditioner and heat pump test procedure for its City Multi Variable Refrigerant Flow Zoning (VFRZ) products.

Issued in Washington, DC, on August 18, 2004.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Mitsubishi Electric and Electronics USA, Inc. (MEUS). (Case No. CAC–008)

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III (42 U.S.C. 6291–6309) provides for the AEnergy Conservation Program for Consumer Products other than Automobiles.'' Part C of Title III (42 U.S.C. 6311–6317) provides for a program entitled ACertain Industrial Equipment,'' which is similar to the program in Part B, and which includes commercial air conditioning equipment, packaged boilers, water heaters, and other types of commercial equipment.

Today's decision and order involves commercial equipment under Part C, which specifically provides for definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. With respect to test procedures, Part C generally authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which reflect energy efficiency, energy use and estimated annual operating costs, and that are not unduly burdensome to conduct.

For commercial package air-conditioning and heating equipment, EPCA provides that the test procedures shall be those generally accepted industry testing procedures developed or recognized by the Air-Conditioning and Refrigeration Institute (ARI) or by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), as referenced in ASHRAE/IES (IES is the Illuminating Engineering Society of North America) Standard 90.1 and in effect on June 30, 1992. (42 U.S.C. 6314(a)(4)(A)) This section also allows the Secretary of Energy to amend the test procedure for a product if the industry test procedure is amended, unless the Secretary determines that such a modified test procedure does not meet the statutory criteria. (42 U.S.C. 6314(a)(4)(B)).

The relevant test procedure for the purposes of today's decision and order and referenced in the version of ASHRAE 90.1 in effect in 1992 is ARI 210/240 (1989), ''Standard for Unitary Air-Conditioning and Air-Source Heat Pump Equipment.'' The Air-Conditioning and Refrigeration Institute subsequently modified the 1989 version of the test procedure. The Department issued a Notice of Proposed Rulemaking proposing to adopt ARI 210/240 (1994) (65 FR 48828, Aug. 9, 2000), but has not taken final action with respect to that proposal. Thus, the currently applicable test procedure is contained in ARI Standard 210/240 (1989).

The Department's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products and electric motors. These provisions are set forth in 10 CFR 430.27 and 10 CFR 431.29. However, there are no waiver provisions for other covered commercial equipment. The Department proposed waiver provisions for covered commercial equipment on December 13, 1999 (64 FR 69597), as part of the commercial furnace test procedure rule. The Department expects to publish a final rule codifying this process in 10 CFR 431.201. Until that time, DOE will apply to commercial equipment the waiver provisions for consumer products and electric motors. These waiver provisions are substantively identical.

The waiver provisions allow the Assistant Secretary for Energy Efficiency and Renewable Energy to waive temporarily the test procedure for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. (10 CFR 430.27 (l), 10 CFR 431.29 (f)(4)) Waivers generally remain in effect until final test procedure amendments become effective, thereby resolving the problem that is the subject of the waiver.

On June 13, 2003, MEUS submitted a Petition for Waiver from the test procedures applicable to commercial package air conditioning and heating equipment. MEUS requested a waiver from the applicable test procedures because, MEUS asserts, the current test procedures evaluate its CITY MULTI Variable Refrigerant Flow Zoning (VRFZ) system products in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data.

In particular, MEUS requested a waiver from the currently applicable test procedures contained in ARI 210/240 (1989), and from the test procedures contained in ARI 210/240 (1994), which the Department has proposed to adopt. On September 16, 2003, the Department published MEUS's Petition for Waiver, and solicited comments, data, and information respecting the petition. 68 FR 54212.

The Department received three written comments, from Carrier Corporation (Carrier), Lennox International Inc. (Lennox), and Samsung Air Conditioning (Samsung), concerning the Petition for Waiver. One of the comments (Samsung) supported granting the waiver, and two of the comments (Carrier and Lennox) were opposed.

Assertions and Determinations

MEUS' petition presented several arguments in support of its claim that the current test procedures evaluate CITY MULTI VRFZ system products in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data. One argument concerned the complexity of testing VFRZ systems. The current test procedure can be used to test all current commercial systems in the laboratory, but many VFRZ systems cannot be tested in the laboratory. Each VFRZ outdoor unit can be connected with up to sixteen separate indoor units in a zoned system. Existing test laboratories cannot test more than five indoor units at a time, and even that number is difficult.

A second difficulty is that MEUS offers 58 indoor unit models. Each of these indoor unit models is designed to be used with up to 15 other indoor units, which need not be the same models, in combination with a single outdoor unit. For each of the CITY MULTI VRFZ outdoor coils, there are well over 1,000,000 combinations of indoor coils that can be matched up in a system configuration, and it is highly impractical to test so many combinations.

There are therefore two major testing problems: (1) Test laboratories cannot test products with so many indoor units; and (2) there are too many possible combinations of indoor and outdoor units— only a small fraction of the combinations could be tested. These problems do not support MEUS' claim that the ''current test procedures

evaluate CITY MULTI VRFZ system products in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data.'' However, they do support the other waiver criterion, that ''the basic model contains one or more design characteristics which * * * prevent testing of the basic model according to the prescribed test procedures. * * *''

In its comments on the waiver petition, Carrier addressed the first problem, stating that testing units with two or three indoor sections would be a good check on the rating accuracy. Lennox addressed the second problem, suggesting that the Petitioner present engineering analysis to establish a method of sampling a range of performance. The Department does not believe that the solutions embodied in either comment are a sufficient answer to the difficulties. These solutions would not provide a rating comparable in accuracy with the current test procedure as applied to a typical commercial system with one indoor and one outdoor unit. Furthermore, neither commenter addressed the problem of the test procedure's not having been designed to cover zoned systems.

The remainder of MEUS' assertions, and the comments upon them, relate to the energy efficiency descriptor, the energy efficiency ratio (EER). MEUS asserts: (1) The test procedure does not accommodate infinite variability in compressor speeds; (2) full load EER measurements are not representative of customer usage at part loads; and (3) the test procedure does not account for simultaneous heating and cooling. In short, MEUS asserts the test procedure for EER does not capture the energy savings of VFRZ products. While this assertion is true, it is irrelevant because the full load EER energy efficiency descriptor is the one mandated by EPCA for these products (42 U.S.C. 6313(a)(1)(c)), and the relevant energy performance is the peak load efficiency, not the seasonal energy savings. Therefore, a waiver can only be granted if a test procedure does not fairly represent the peak load energy consumption characteristics which EER measures. The Department is not convinced that the test procedures do not fairly represent the true (peak load) energy consumption characteristics as measured by EER. However, the two testing problems discussed above, (test laboratories cannot test products with so many indoor units, and there are too many possible combinations of indoor and outdoor units to test), do prevent testing of the basic model according to the prescribed test procedures.

The Department consulted with The Federal Trade Commission (FTC) concerning the MEUS Petition. The FTC did not have any objections to the issuance of the waiver to MEUS. The Department also consulted with the National Institute of Standards & Technology (NIST), who agreed that many VFRZ systems could not be tested in the laboratory.

Conclusion

After careful consideration of all the material that was submitted by MEUS, the comments received, the review by NIST, and consultation with the FTC, it is ordered that:

(1) The ''Petition for Waiver'' filed by Mitsubishi Electric and Electronics USA, Inc. (MEUS) (Case No. CAC–008) is hereby granted as set forth in paragraph (2) below.

(2) MEUS shall be not be required to test or rate its CITY MULTI Variable Refrigerant Flow Zoning System (VFRZ) products listed below on the basis of the currently applicable test procedure:

CITY MULTI Variable Refrigerant Flow Zoning System R–2 Series Outdoor Equipment:
- PURY–80TMU, 80,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.
- PURY–100TMU, 100,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

CITY MULTI Variable Refrigerant Flow Zoning System Y Series Outdoor Equipment:
- PUHY–80TMU, 80,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.
- PUHY–100TMU, 100,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.
- PUY–80TMU, 80,000 Btu/h, 208/230–3–60 split-system variable-speed air conditioner.
- PUY–100TMU, 100,000 Btu/h, 208/230–3–60 split-system variable-speed air conditioner.

CITY MULTI Variable Refrigerant Flow Zoning System Indoor Equipment [a]:
- PCFY Series—Ceiling Suspended—PCFY–16/24/40/48***-*.
- PDFY Series—Ceiling Concealed Ducted—PDFY–08/10/12/16/20/24/28/32/40/48***-*.
- PEFY Series—Ceiling Concealed Ducted, Low External Static Pressure—PEFY–08/10/12***-*.
- PEFY Series—Ceiling Concealed Ducted, High External Static Pressure—PEFY–16/20/24/28/32/40/48***-*.
- PFFY Series—Floor Standing—PFFY–08/10/12/16/20/24***-*.
- PKFY Series—Wall-Mounted—PKFY–08/10/12/16/20/24/32/40***-*.
- PLFY Series—4–Way Airflow Ceiling Cassette—PLFY–12/16/20/24/32/40/48***-*.
- PLFY Series—2–Way Airflow Ceiling Cassette—PLFY–08/10/12/16/20/24/32/40/48***-*.
- PMFY Series—1–Way Airflow Ceiling Cassette—PMFY–08/10/12/16***-*.

(3) This waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the model series manufactured by MEUS and listed above.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition is incorrect.

Issued in Washington, DC, on August 18, 2004.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 04–19604 Filed 8–26–04; 8:45 am]

BILLING CODE 6450–01–P

[a] The * denotes engineering differences in the models.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

DATES: September 29, 2004.
Time: 8:30 a.m.

ADDRESSES: Hilton Crystal City Hotel at National Airport,2399 Jefferson Davis Highway,Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Don Richardson, Designated Federal Officer for the Committee, Office of Energy

Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–7766.

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To provide advice and guidance that promotes research and development leading to the production of biobased industrial products.

Tentative Agenda: Agenda will include discussions on the following:

- The Biomass R&D Technical Advisory Committee will meet to develop the 2004 Recommendations to the Secretaries of Energy and Agriculture.
- The Biomass R&D Technical Advisory Committee will begin developing its 2005 Work Plan.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Don Richardson at 202–586–7766 or the Biomass Initiative at *laura.neal@ee.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 23, 2004.

Carol A. Matthews,

Acting Advisory Committee Management Officer.

[FR Doc. 04–19605 Filed 8–26–04; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ORD–2004–0013, FRL–7807–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Application for Reference or Equivalent Method Determination, EPA ICR Number 0559.08, OMB Control Number 2080.0005

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 a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on February 28, 2005. 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 must be submitted on or before October 26, 2004.

ADDRESSES: Submit your comments, referencing docket ID number ORD–2004–0013, to EPA online using EDOCKET (our preferred method), by e-mail to the Office of Environmental Information (OEI) Docket, *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Environmental Information Docket (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Hunike, U.S. Environmental Protection Agency, Human Exposure and Atmospheric Sciences Division, Process Modeling Research Branch, Mail Drop D205–03, Research Triangle Park, NC 27711; telephone number: (919) 541–3737; facsimile number: (919) 541–1153; e-mail: *Hunike.Elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number ORD–2004–0013, which is available for public viewing at the Office of Environmental Information 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 Reading Room is (202) 566–1744, and the telephone number for the Office of Environmental Information Docket is (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the 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 docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public 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 EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected entities: Entities potentially affected by this action are primarily manufacturers and vendors of ambient air quality monitoring instruments that are used by state and local air quality monitoring agencies in their federally required air surveillance monitoring networks, and agents acting for such instrument manufacturers or vendors. Other entities potentially affected may include state or local air monitoring agencies, other users of ambient air quality monitoring instruments, or any other applicant for a reference or equivalent method determination.

Title: Application for Reference and Equivalent Method Determination (OMB Control No. 2080–0005; EPA ICR No. 0559.08; expiring February 28, 2005).

Abstract: To determine compliance with the national ambient air quality standards (NAAQS), State air monitoring agencies are required to use, in their air quality monitoring networks,

air monitoring methods that have been formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR Part 53. A manufacturer or seller of an air monitoring method (*e.g.*, an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR Part 53. The EPA uses this information, under the provisions of Part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter ($PM_{2.5}$), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods.

A response to this collection of information is voluntary, but it is required to obtain the benefit of EPA designation under 40 CFR Part 53. Submission of some information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as confidential business information by the applicant will be protected in full accordance with 40 CFR Part 53.15 and all applicable provisions of 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.

The EPA would like to solicit comments 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 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.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 4,720 hours, with a cost of approximately $93,000. These estimates are based on a projected receipt of 5 major applications per year with a weighted average burden of 860 hours per application, and an estimated 14 minor applications per year with a weighted average burden of 30 hours each. However, it should be noted that actual applications range widely in content and extent. Accordingly, the individual respondent burden for a particular application response may differ substantially from these weighted average burden estimates. The weighted average cost burden estimate includes start up costs, the total cost of capital equipment annualized over its expected useful life, operation and maintenance, and purchase of services.

Dated: August 16, 2004.

Gary J. Foley,

Director, National Exposure Research Laboratory.

[FR Doc. 04–19613 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0252; FRL–7674–6]

Application and Summary Report for an Emergency Exemption for Pesticides; Renewal of Pesticide Information Collection Activities and Request for Comments

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 seeking public comment on the following Information Collection Request (ICR): Application and Summary Report for an Emergency Exemption for Pesticides (EPA ICR No. 0596.09, OMB Control No. 2070–0032). This is a request to renew an existing ICR that is currently approved and due to expire November 30, 2004. The ICR describes the nature of the information collection activity and its expected burden and costs. 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.

DATES: Written comments, identified by the docket identification (ID) number OPP–2004–0252, must be received on or before October 26, 2004.

ADDRESSES: Comments 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: Nathanael Martin, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *martin.nathanael@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal Agency, U.S. territory, or State Agency responsible for the regulation of pesticides. Potentially affected entities may include, but are not limited to:

- Federal and State Agencies responsible for regulating pesticides (NAICS 92614), e.g., regulation of agricultural marketing and commodities.

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 above 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**.

II. How Can I Get Copies of this Document and Other Related Information?

A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0252. 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, 1801 South Bell St., 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.

B. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

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.

III. How Can I Respond to this Action?

A. 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 ID number 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 III.B. 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 in this unit, 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. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0252. 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 e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0252. 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.A. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0252.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 South Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0252. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit II.A.

B. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. 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:

1. Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Application and Summary Report for an Emergency Exemption for Pesticides.

ICR numbers: EPA ICR No. 0596.09, OMB Control No. 2070–0032.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire November 30, 2004.

Abstract: This data collection program is designed to provide EPA with necessary data to evaluate an application for a permit for the temporary shipment and use of a pesticide product for an unregistered use to mitigate an emergency situation and to evaluate the effectiveness of that product in allaying the emergency. The submission of the request for section 18 emergency exemptions are at the discretion of a State Agency, U.S. territory, or Federal Agency. Should one of these entities apply for the emergency, then the information and data herein are requested by EPA.

V. 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 provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 49,500. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 50.

Estimated total number of potential respondents: 50.

Frequency of response: As needed.

Estimated total/average number of responses for each respondent: 5–10 annually.

Estimated total annual burden hours: 49,500.

Estimated total annual burden costs: $2,683,000.

VI. Are There Changes in the Estimates from the Last Approval?

The overall respondent burden has decreased due to the drop in the overall number of section 18 emergency exemption applications annually from 600 for the period of 1998–2000 to approximately 500 for the period of 2001–2003. This trend is attributed to the Agency's focus and priority on making registration decisions for repeated section 18 emergency exemption uses quickly. For instance, in 2003 registration decisions for 120 uses

negated the need for applications to submit repeat section 18 emergency exemption requests. In 2002, 56 repeat section 18 emergency exemption uses were negated by registration decisions. The amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) under the Pesticide Registration Improvement Act are likely to reinforce this trend.

VII. 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 listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: August 23, 2004.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 04–19621 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6655–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements(EISs) was published in FR dated April 2, 2004 (69 FR 17403).

Draft EISs

ERP No. D–AFS–J65414–UT Rating EC2, State of Utah School and Institutional Trust LandsAdministration (SITLA) Access Route on EastMountain, National Forest System LandsAdministered by Mantila Sal National Forest,Ferron/Price Ranger District, Emery Counties,UT.

Summary: EPA expressed concerns related to impacts on the inventoried roadless area from logging, oil and gas wells, road construction, and gravel pit and vehicle use.

ERP No. D–AFS–J65415–MT Rating EC2, Robert-Wedge Post-Fire Project, Salvage Trees andRehabilitate Lands, Flathead National Forest,Glacier View Ranger District, Flathead County, MT.

Summary: EPA expressed concern that logging in areas of high-burn severity may result in increased erosion and sediment production. EPA recommended additional use of less damaging logging techniques such as helicopter logging or logging during winter on snow or frozen ground.

ERP No. D–COE–F32197–MS Rating EC2, Programmatic EIS—Upper Mississippi River andIllinois Waterway System Navigation FeasibilityStudy (UMR–IWW), Addressing NavigationImprovement Planning and Ecological RestorationNeeds, MS, IL, IA, MN, MO, WI.

Summary: EPA expressed concerns centering on how implementation of the proposed new management strategies would influence the ecological future of the UpperMississippi River System. Specific concerns focused on defining the purpose and need, adaptive management and phased project approach, alternatives analysis, institutional arrangements, and ecosystem restoration, and mitigation/impact analysis.

ERP No. D–COE–L32012–AK Rating EC2, Unalaska Navigation Improvements Project,Construction of Harbor on Amaknak Island in Aleutian Island Chain, Locally known as ''LittleSouth America, Integrated Feasibility Report,Aleutian Island, AK.

Summary: EPA expressed concerns that the proposed mitigation may not be adequate to compensate for productive intertidal and subtidal habitat adversely impacted by the project. EPA requested that the Corps consider additional mitigation at sites identified in the draftEIS or other sites if appropriate. EPA also requested that the final EIS provide additional information on impacts to impaired waters listed under Section 303(d) of the Clean Water Act, analysis of alternative sites, and impacts to subsistence resources and minority populations.

ERP No. D–DOE–J91000–MT Rating EC2,South Fork Flathead Watershed Westslope CutthroatTrout Conservation Program, Preserve the GeneticPurity of the Westslope Cutthroat TroutPopulation, Flathead National Forest, FlatheadRiver, Flathead, Powell and Missoula Counties, MT.

Summary: EPA expressed concerns about the need for additional information regarding: project monitoring and evaluation and the adaptive management program; contingency plans if treatments do not eradicate the entire hybrid trout population, and in the event of continuing illegal reintroduction of non-native trout after the proposed treatments, and spills or releases of hazardous chemicals; more complete identification of the advantages and disadvantages of proposed fish toxins; and the restocking program.

ERP No. D–IBR–H39011–00 Rating EC2, Programmatic EIS—Platte River Recovery Implementation Program, Assessing Alternatives, Cooperative, Endangered Species Recovery Program, The Four Target Species are Whooping Crane, Interior Least Tern, Piping Plover and Pallid Sturgeon, NB, WY and CO.

Summary: EPA expressed concerns related to wetlands impacts and water quality impacts.

Final EISs

ERP No. F–AFS–J65409–MT Lower Big Creek Project, Timber Harvest and Prescribed Burning, Implementation, Kootenai National Forest Plan, Rexford Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns with potential adverse impacts from sediment production and transport from logging and associated road reconstruction, and with uncertain funding for implementation of all the proposed restoration.

ERP No. F–DOE–L02032–OR COB Energy Facility, Construction of a 1,160-megawatt (MW) Natural Gas-Fired and Combined-Cycle Electric Generating Plant, Right-of-Way Permit cross Federal Land under the Jurisdiction of BLM, Klamath Basin, Klamath County, OR.

Summary: No comment letter was sent to the preparing agency.

ERP No. F–NAS–E12006–FL International Space Research Park (ISRP) to Bring New Research and Development Uses to the John F. Kennedy Center, Brevard County, FL.

Summary: EPA continues to have no environmental objections to the proposed research center.

ERP No. F–NRC–F06022–IL Quad Cities Nuclear Power Station Units 1 and 2, Supplement 16 to NUREG–1437, License Renewal, IL.

Summary: EPA continues to express environmental concern related to impacts from power uprates and on-site waste storage, sediment contamination and estimates of risk.

ERP No. F–NRC–F06023–IL Dresden Nuclear Power Station, Unit 2 and 3, Supplement 17, NUREG 1437, Renewal of a Nuclear Power Plant Operating License, Grundy County, IL.

Summary: EPA continues to express environmental concerns related to cooling water system impacts, and on-site waste storage.

ERP No. F–NRS–E36181–TN Cane Creek Watershed Remedial Plan, Widening and Degradation of the Cane Creek Channel, Lauderdale County, TN.

Summary: EPA is supportive of the efforts to improve environmental amenities within the project effect's area and, therefore, has no objection to the action as proposed.

ERP No. F–USN–E11051–MS Purchase of Land in Hancock County, Mississippi, for a Naval Special Operations Forces Training Range, To Improve Riverine and Jungle Training Availabilities, John C. Stennis Space Center, Hancock County, MS.

Summary: EPA has no objections to the proposed land purchase.

ERP No. F1–AFS–E65031–KY Gray Mountain Coal Lease Land Use Analysis, Application for Leasing Tracts 3094Bb, 3049Be and 3049Az, Daniel Boone National Forest, Leslie County, KY.

Summary: EPA has no objections to the project, provided mitigation measures and monitoring are implemented as described in the Final EIS.

Dated: August 24, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04–19617 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6655–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov.compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed August 16, 2004 Through August 20, 2004 Pursuant to 40 CFR 1506.9.

EIS No. 040394, Draft EIS, AFS, ID, Red Pines Project, Proposes to Implement Fuel Reduction Activities and Improve the Range of Watershed Activities, Nez Perce National Forest, Red River Ranger District, Idaho County, ID, Comment Period Ends: October 12, 2004, Contact: Ester Hutchison (209) 983–1950.

EIS No. 040395, Draft Supplement, TPT, CA, Presidio Trust Public Health Service Hospital (PUSH or Building 1801) at the Presidio of San Francisco (Area B) of Presidio Trust Management Plan, To Rehabilitate and Reuse Buildings, Gold Gate National Recreation Area, San Francisco Bay, Marin County, CA, Comment Period Ends: October 12, 2004, Contact: John Pelka (415) 561–5300. This document is available on the Internet at: *http//www.presidio.gov.*

EIS No. 040396, Draft EIS, FRA, CA, Los Angeles—To—San Diego (LOSSAN) Rail Corridor, Proposed Rail Corridor Improvement Studies to Increase Intercity Travel for Faster, Safer and Reliable Passenger Rail System, Los Angeles, Orange and San Diego Counties, CA, Comment Period Ends: October 27, 2004, Contact: David Valenstein (202) 493–6368.

EIS No. 040397, DRAFT EIS, SFW, CA, Bair Island Restoration and Management Plan, Restore Tidal Action to 1,400 Acres of Former Salt Ponds, Don Edwards San Francisco Bay National Wildlife Refuge, Bair Island State Ecological Reserve, South San Francisco Bay, San Mateo County, CA, Comment Period Ends: October 12, 2004, Contact: Clyde Morris (510) 792–0222.

EIS No. 040398, Final Supplement, EPA, MS, FL, AL, Eastern Gulf of Mexico Offshore Oil and Gas Extraction, Updated Information on Issuance of New National Pollutant Discharge Elimination System General Permit and the Ocean Discharge Criteria Evaluation, MS, AL and FL, Wait Period Ends: September 7, 2004, Contact: Lena Scott (404) 562–9607.

EIS No. 040399, Draft EIS, AFS, OR, ID, WA, CA, Pacific Northwest Region Invasive Plant Program, Preventing and Managing Invasive Plants, Implementation, OR, WA, Including Portions of Del Norte and Siskiyou Counties, CA and Portions of Nez Perce, Salmon, Idaho and Adam Counties, ID,Comment Period Ends: November 24, 2004, Contact: Eugene Skrine (503) 808–2685.

EIS No. 040400, Final EIS, DOE, WA, BP Cherry Point Cogeneration Project, To Build a 720-megawatt Gas-Fired Combined Cycle Cogeneration Facility, Energy Facility Site Evaluation Council (EFSEC), Whatcom County, WA, Wait Period Ends: September 7, 2004, Contact: Thomas E. McKinney (503) 230–4749. This document is available on the Internet at: *http://www.efsec.wa.gov.*

EIS No. 040401, Final EIS, EPA, FL, Palm Beach Harbor Ocean Dredged Material Disposal Site and the Port Everglades Harbor Ocean Dredged Material Disposal Site, Designation, FL, Wait Period Ends: September 7, 2004, Contact: Christopher McArthur (404) 562–9391. This document is available on the Internet at: *http://www.epa.gov/region4/water/oceans/proposed_sites.htm.*

EIS No. 040402, Revised Draft EIS, IBR, CA, NV, Truckee River Operating Agreement (TROA) Modify Operations of Five Federal and Two Non-Federal Reservoirs to Facilitate Distribution of Water, Truckee River Basin, EL Dorado, Nevada, Placer and Sierra Counties, CA and Douglas, Lyon, Storey and Washoe Counties, NV, Comment Period Ends: October 29, 2004, Contact: Kenneth Parr (775) 882–3436.

EIS No. 040403, Final Supplemental, NOA, FL, MS, TX, AL, LA, Reef Fish Fishery Management Plan Amendment 22, To Set Red Snapper Sustainable Fisheries Act Targets and Thresholds, Set a Rebuilding Plan, and Establish Bycatch Reporting Methodologies for the Reef Fish Fishery, Gulf of Mexico, Wait Period Ends: September 7, 2004, Contact: Roy E. Crabtree (727) 570–5305. This document is available on the Internet at: *http://www.gulfcouncil.org.*

EIS No. 040404, Draft EIS, NOA, WA, CA, OR, 2005–2006 Pacific Coast Groundfish Fishery, Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures, WA, OR and CA, Comment Period Ends: October 12, 2004, Contact: D. Robert Lohn (206) 526–6150. This document is available on the Internet at: *http://www.pcouncil.org.*

EIS No. 040405, Draft EIS, NOA, HI, Seabird Interaction Mitigation Methods, To Reduce Interaction with Seabird in Hawaii-Based Longline Fishery and Pelagic Squid Fishery Management, To Establish an Effective Management Framework for Pelagic Squid Fisheries, Fishery Management Plan, Pelagic Fisheries of the Western Pacific Region, Exclusive Economic Zone of the U.S. and High Sea, Comment Period Ends: October 12, 2004, Contact: Tom Graham (808) 973–2937.

Amended Notices

EIS No. 040276, Final EIS, FAA, MN, Flying Cloud Airport Expansion, Extensions of the Runway 10R/28L and 10L/28R, Long-Term Comprehensive Development, In the City of Eden Prairie, MN, Wait Period

Ends: September 1, 2004, Contact: Glen Orcult (612) 713–4354. Revision of FR Notice Published on 6/18/04: CEQ Comment Period Ending 8/17/2004 has been Extended to 9/1/2004.

Dated: August 27, 2004.

Robert W. Hargrove,

Division Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04–19618 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7807–4]

Board of Scientific Counselors, Executive Committee Meeting—Fall 04

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of an Executive Committee meeting of the Board of Scientific Counselors (BOSC).

DATES: The meeting will be held on Wednesday, September 22, 2004 from 9:30 a.m. to 5:30 p.m. Time has been allotted from 8:30 a.m. to 9:30 a.m. for BOSC members of four subcommittees (Endocrine Disrupting Chemicals (EDCs), Computational Toxicology, Global Change, and Mercury) to meet prior to the Executive Committee meeting. The meeting will continue on Thursday, September 23, 2004 from 8:30 a.m. to 3:15 p.m. All times noted are eastern time. The meeting may adjourn early on Thursday if all business is finished.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Document Availability

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Ms. Lorelei Kowalski, Designated Federal Officer, via telephone/voice mail at (202) 564–3408, via e-mail at *kowalski.lorelei@epa.gov,* or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104–R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

In general, each individual making an oral presentation will be limited to a total of three minutes. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day before the meeting date. The draft agenda can also be viewed through EDOCKET, as provided in Unit I.A. of the **SUPPLEMENTARY INFORMATION** section.

Submitting Comments

Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B. of the **SUPPLEMENTARY INFORMATION** section. Written comments will be accepted up to 1 business day before the meeting date.

FOR FURTHER INFORMATION CONTACT: Ms. Lorelei Kowalski, Designated Federal Officer, via telephone/voice mail at (202) 564–3408, via e-mail at *kowalski.lorelei@epa.gov*, or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104–R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. General Information

Proposed agenda items for the meeting include, but are not limited to: Briefings on ORD's nanotechnology program and EMAP; discussion of BOSC review of ORD research programs; update on review committees for mercury, computational toxicology, endocrine disruptors, and global change; discussion of a proposal to hold a risk assessment workshop in 2005, ORD's Biotechnology Research Strategy and Coastal Health report, and interagency relationships; update on EPA's Science Advisory Board activities; discussion of the BOSC's FY05 work agenda; and future issues and plans (including the Communications and Nomination Subcommittees). The meeting is open to the public.

Information on Services for the Handicapped: Individuals requiring special accommodations at this meeting should contact Lorelei Kowalski, Designated Federal Officer, at (202) 564–3408, at least five business days prior to the meeting so that appropriate arrangements can be made to facilitate their participation.

A. How Can I Get Copies of Related Information?

1. Docket

EPA has established an official public docket for this action under Docket ID No. ORD–2004–0014. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Documents in the official public docket are listed in the index in EPA's electronic public docket and comment system, EDOCKET. Documents may be available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copy of the draft agenda may be viewed at the Board of Scientific Counselors, Executive Committee Meeting-Fall–04 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 ORD Docket is (202) 566–1752.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the Federal Register listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET 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 identification number.

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, confidential business information (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.

B. 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 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period.

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. EDOCKET. 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 EDOCKET 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, *http://www.epa.gov,* select ''Information Sources,'' ''Dockets,'' and ''EDOCKET.'' Once in the system, select ''search,'' and then key in Docket ID No. ORD–2004–0014. 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 *ORD.Docket@epa.gov,* Attention: Docket ID No. ORD–2004–0014. 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 I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail

Send your comments to: U.S. Environmental Protection Agency, ORD Docket, EPA Docket Center (EPA/DC), Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Docket ID No. ORD–2004–0014.

3. By Hand Delivery or Courier

Deliver your comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention: Docket ID No. ORD–2004–0014. (**Note:** this is not a mailing address.) Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.A.1.

Dated: August 23, 2004.

Jeffery Morris,

Acting Director, Office of Science Policy.

[FR Doc. 04–19612 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0292; FRL–7676–9]

Pyraclostrobin; Notice of Filing of Four Pesticide Petitions to Establish Tolerances for a Certain Pesticide Chemical in and on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0292, must be received on or before September 27, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460—0001; telephone number: (703) 305–7740; e-mail address: *giles-parker.cynthia@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, pesticide manufacturer, or consume agricultural commodities. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Farming (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 ID number OPP–2004–0292. 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, 1801 South Bell St., 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/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

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.

C. 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 ID number 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 I.D. 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 in this unit, 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. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0292. 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 e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2004–0292. 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 I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0292.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 South Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0292. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or

CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 23, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petitions

The petitioner summary of the pesticide petitions is printed below as required by FFDCA section 408(d)(3). The summary of the petitions was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation and Interregional Research Project Number 4 (IR–4)

Pesticide Petitions (PP) 0F6139, 2F6431, 3F6581, and 3E6774

EPA has received three pesticide petitions (PP 0F6139, 2F6431, and 3F6581) from BASF Corporation, Research Triangle Park, NC 27709, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. section 346a (d), to amend 40 CFR part 180.582 by establishing tolerances for the combined residues of the fungicide pyraclostrobin (carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester) and its metabolite BF 500–3 (methyl-*N*-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate), expressed as parent compound. The following tolerances are proposed: Bean, succulent 0.5 parts per million (ppm); bean forage 1.0 ppm; bean hay 11.0 ppm; pea, dry 0.5 ppm; pea, field, hay 26 ppm; pea, field, vines 10 ppm; corn, field, grain 0.1 ppm; corn, field, forage 5.0 ppm; corn, field, stover 17 ppm; corn, field, aspirated grain fractions 1.5 ppm; corn, field, refined oil 0.3 ppm); corn, pop 0.1 ppm; corn, sweet, kernel plus cob with husk removed 0.04 ppm; corn, sweet, forage 5.0 ppm; corn, sweet, stover 23 ppm; vegetable, legume, edible-podded, subgroup 6A 0.5 ppm; hop 23 ppm; mango 0.1 ppm; peppermint 8.0 ppm; spearmint 8.0 ppm; papaya 0.1 ppm; pea and bean, succulent shelled, subgroup 6B 0.2 ppm; fruit, pome, group 1.5 ppm; apple, wet pomace 4.0 ppm; sunflower 0.3 ppm; brassica, leafy greens, subgroup 5B 16 ppm; fruit, citrus, group 2 ppm; fruit, citrus, dried pulp 12.5 ppm; citrus, oil 9 ppm; soybean 0.04 ppm; soybean, forage 5 ppm; soybean, hay 7 ppm; and soybean, aspirated grain fractions 0.25 ppm.

EPA has also received a pesticide petition (PP 3E6774) from Interregional Research Project Number 4 (IR–4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390, proposing pusuant to section 408(d) of the FFDCA, 21 U.S.C. section 346a (d) to amend 40 CFR part 180.582 by establishing tolerances for the combined residues of the fungicide pyraclostrobin and its metabolite BF 500–3 in or on vegetables, leafy, except brassica, group 4 29 ppm.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these petitions. Additional data may be needed before EPA rules on the petitions. This summary has been prepared by BASF Corporation, Research Triangle Park, NC 27709.

A. Residue Chemistry

1. *Plant and animal metabolism.* Nature of the residue studies (OPPTS 860.1300) were conducted in grape, potato, and wheat as representative crops in order to characterize the fate of pyraclostrobin in all crop matrices. Pyraclostrobin demonstrated a similar pathway and fate in all three crops. In all three crops the pyraclostrobin Residues of Concern (ROC) were characterized as parent (pyraclostrobin) and BAS 500–3 (methyl-*N*[[[1-(4-chlorophenyl) pyrazol-3yl]oxy]o-tolyl] carbamate). In hens the ROC were determined to be parent compound and a hydroxylated metabolite, BAS 500–16. In goats the ROC were determined to be parent and a hydroxylated metabolite BAS 500–10.

2. *Analytical method.* In plants the method of analysis is aqueous organic solvent extraction, column clean up, and quantitation by Liquid Chromatography/Mass Spectrometry/ Mass Spectrometry (LC/MS/MS). In animals the method of analysis involves base hydrolysis, organic extraction, column clean up, and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by Gas Chromatography/Mass Spectrometry (GC/MS).

3. *Magnitude of the residue.* Field trials were carried out in order to determine the magnitude of the residue in the following crops: Citrus (reduced Pre-harvest Interval (PHI)), field corn,

sweet corn, edible podded legume vegetables, hops, leafy brassica, mango, mint, papaya, pome fruit, dry peas, soybean, succulent shelled beans, succulent shelled peas, and sunflower. The residue trials in mango and papaya were carried out in Latin America. Field trials for the rest of the crops were conducted in the United States and Canada. Field trials were carried out using the maximum label rate, the maximum number of applications, and the minimum PHI for each crop or crop group. In addition, processing studies were conducted on the following crops to determine concentration factors during normal processing of the raw agricultural commodity into the processed commodities: Corn, mint, pome fruit, and sunflower. Magnitude of the residue trials were previously carried out in cow and poultry and submitted with PP 0F6139. Field trials were also carried out in order to determine the magnitude of the residue in vegetables, leafy, except brassica, group 4 to satisfy the requirements for a tolerance for pyraclostrobin in this crop group. Field trials were carried out using the maximum label rate, the maximum number of applications, and the minimum PHI.

B. Toxicological Profile

1. *Acute toxicology*. Based on available acute toxicity data pyraclostrobin and its formulated products do not pose acute toxicity risks. The acute toxicity studies place technical pyraclostrobin in toxicity category IV for acute oral, category III for acute dermal, and category IV for acute inhalation. Pyraclostrobin is category III for both eye and skin irritation, and it is not a dermal sensitizer. Two formulated end use products are registered for use on crops, an Emulsifiable Concentrate (EC) and an Extruded Granule (EG). The EC has an acute oral toxicity category of II, acute dermal category of III, acute inhalation category of IV, eye and skin irritation categories of II, and is not a dermal sensitizer. The EG has acute oral and dermal toxicity categories of III, acute inhalation category of IV, eye irritation category of III, skin irritation category of IV, and is not a dermal sensitizer.

2. *Genotoxicity*. Pyraclostrobin has been tested in a total of 5 genetic toxicology assays consisting of *in vitro* and *in vivo* studies. It can be stated that pyraclostrobin did not show any mutagenic, clastogenic, or other genotoxic activity when tested under the conditions of the studies mentioned in the bulleted list below. Therefore, pyraclostrobin does not pose a genotoxic hazard to humans.

- Ames test (one study of point mutation): Negative.
- *In vitro* Chinese Hamster Ovary (CHO) HGPRT locus mammalian cell mutation assay (one study of point mutation): Negative.
- *In vitro* V79 cells CHO cytogenetic assay (one study of chromosome damage): Negative.
- *In vivo* mouse micronucleus (one study of chromosome damage): Negative.
- *In vitro* rat hepatocyte (one study of DNA damage and repair): Negative.

3. *Reproductive and developmental toxicity*. The reproductive and developmental toxicity of pyraclostrobin was investigated in a 2-generation rat reproduction study as well as in rat and rabbit teratology studies. There were no adverse effects on reproduction in the 2-generation study so the no observable adverse effect level (NOAEL) is the highest dose tested of 300 ppm (32.6 milligrams per kilogram bodyweight per day (mg/kg bw/day)). Parental and pup toxicity in the form of reduced body weight gain were observed at the highest dose tested only. Therefore, the parental systemic and developmental toxicity NOAELs are the same at 75 ppm (8.2 mg/kg bw/day).

No teratogenic effects were noted in either the rat or rabbit developmental studies. In the rat study, maternal toxicity observed at the mid and high dose consisted of decreased food consumption and body weight gain. Developmental changes noted at the high dose were increased incidences of dilated renal pelvis and cervical ribs with no cartilage. The maternal NOAEL was 10 mg/kg bw/day and the developmental NOAEL was 25 mg/kg bw/day. In the rabbit teratology study, maternal toxicity observed at the mid and high doses consisted of decreased food consumption and body weight gain (severe at the high dose). An increased postimplantation loss was also observed at the mid and high doses due to an increase in early resorptions. In rabbits, these types of effects are often observed with significant stress on the mothers (as seen by the body weight gain decrease in this study) and are not indicative of frank developmental toxicity. The NOAEL for both maternal and developmental toxicity was 5 mg/kg bw/day.

4. *Subchronic toxicity*. The subchronic toxicity of pyraclostrobin was investigated in 90-day feeding studies with rats, mice and dogs, and in a 28-day dermal administration study in rats. A 90-day neurotoxicity study in rats was also performed. Generally, mild toxicity was observed. At high dose levels in feeding studies, general findings in all three species were decreased food consumption and body weight gain and a thickening of the duodenum. Anemia occurred at high dose levels in both rats and mice with accompanying extramedullary hematopoiesis of the spleen in rats. In rats only, a finding of liver cell hypertrophy was indicative of a physiological response to the handling of the chemical. Overall, only mild toxicity was observed in oral subchronic testing. In the 28-day repeat dose dermal study, no systemic effects were noted up to the highest dose tested of 250 mg/kg bw/day. In a 90-day rat neurotoxicity study, a direct neurotoxic effect was not observed.

5. *Chronic toxicity*. Pyraclostrobin was administered to groups of 5 male and 5 female purebred Beagle dogs in the diet at concentrations of 0, 100, 200, and 400 ppm over a period of 12 months. Signs of toxicity were observed at the high dose. Diarrhea was observed throughout the study period for both sexes. High dose males and females initially lost weight and body weight gain was decreased for the entire study period for females. Hematological changes observed were an increase in white blood cells in males and an increase in platelets in both sexes at the high dose. Clinical chemistry demonstrated a decrease in serum total protein, albumin, globulins, and cholesterol in high dose animals of both sexes possibly due to the diarrhea and reduced nutritional status of the animals. The NOAEL was 200 ppm (circa (ca.) 5.5 mg/kg bw/day males; 5.4 mg/kg bw/day females).

In an oncogenicity study, pyraclostrobin was administered to groups of 50 male and 50 female Wistar rats at dietary concentrations of 0, 25, 75, and 200 ppm for 24 months. In a companion chronic toxicity study, 20 rats/sex were used at the same dose levels as in the oncogenicity study. A body weight gain depression of 10–11% in males and 14–22% in females with an accompanying decrease in food efficiency was observed at the high dose. The only other effect observed was a decrease in serum alkaline phosphatase in both sexes at the high dose and decreased alanine aminotransferase in high dose males. There was no evidence that pyraclostrobin produced a carcinogenic effect in rats. The NOAEL for the chronic rat and the cancer rat study is 75 ppm (ca. 3.4 mg/kg bw/day males; 4.6 mg/kg bw/day females).

Pyraclostrobin was administered to groups of 50 male and 50 female B6C3F1 mice at dietary concentrations of 0, 10, 30, 120, and 180 ppm (females

only) for 18 months. Body weights were reduced at the highest doses tested in both males and females. At the high dose, body weight gain decreases of 27% in females and 29% in males with an accompanying decrease in food efficiency were observed. No other signs of toxicity were noted at any dose level. The NOAEL was found to be 120 ppm (ca. 20.5 mg/kg bw/day) for females and 30 ppm (ca. 4.1 mg/kg bw/day) for males. There was no evidence that pyraclostrobin produced a carcinogenic effect in mice.

6. *Animal metabolism*. In a rat metabolism study with pyraclostrobin, 10–13% of the administered dose was excreted in the urine and 74–91% in the feces within 48 hours. Excretion via bile was significant, accounting for 35–38% of the administered dose. By 120 hours after dosing, very little radioactivity remained in tissues. Pyraclostrobin was rapidly and almost completely metabolized. Very little unchanged parent was detected. The phase one biotransformation is characterized by *N*-demethoxylation, various hydroxylations, cleavage of the ether bond and further oxidation of the two resulting molecule parts. Conjugation of the formed hydroxyl groups by glucuronic acid or sulfate also occurred. In summary, pyraclostrobin is extensively metabolized and rapidly eliminated, primarily via the bile, with no evidence of accumulation in tissues.

7. *Metabolite toxicology*. A comparison of the rat metabolism results with the plant metabolism/residue results indicates that toxicology studies performed with the parent pyraclostrobin are sufficient to cover dietary exposure. Plant residues are primarily the parent compound with a fraction (up to 10–20% at most) being the demethoxylated parent. This metabolite is referred to as BF 500–3 in the plant studies and as 500M07 in the rat study. This metabolite in the rat is the first step in the major biotransformation process leading to the majority of the metabolites determined in the major excretion pathway.

8. *Endocrine disruption and endocrine effects*. No specific tests have been conducted with pyraclostrobin to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology, and multi-generation reproductive studies) which would suggest that pyraclostrobin produces endocrine related effects.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Assessments were conducted to evaluate the potential risk due to chronic and acute dietary exposure of the U.S. population to residues of pyraclostrobin (BAS 500 F). This fungicide and its desmethoxy metabolite (BAS 500–3) were expressed as the parent compound (BAS 500 F). Tolerance values have previously been established for various cereals, vegetables, fruits, and animal products and are listed in the EPA final rule which published in the **Federal Register** of September 27, 2002 (67 FR 60886) (FRL–7200–7). This analysis includes all currently registered and pending crop uses, from both IR–4 and BASF.

The acute and chronic dietary exposure estimates were based on proposed tolerance values for most crops:

- Measured residue values for vegetables, leafy, except brassica, group 4.
- Percent crop treated.
- Concentration/processing factors.
- Consumption data from the United States Department of Agriculture (USDA) Continuing Survey of Food Intake by Individuals (CSFII 1994–1996, 1998) and the EPA Food Commodity Ingredient Database (FCID) using Exponent's Dietary Exposure Evaluation Module (DEEM-FCID, version 2.03) software.

Results of exposure estimates were compared against the pyraclostrobin chronic Population Adjusted Dose (cPAD) and acute Population Adjusted Dose (aPAD) of 0.034 mg/kg bw/day and 0.3 mg/kg bw/day for the general population, respectively. For females of child bearing years (13–49 years old) the aPAD is 0.05 mg/kg bw/day. The EPA determined that the FQPA Safety Factor should not be retained and reduced it to 1X for all exposure scenarios. Therefore, the aPAD and cPAD are the same as the aRfD (acute Reference Dose) and cRfD (chronic Reference Dose), respectively.

Results of the chronic dietary assessments are listed in Table 1. The estimated chronic dietary exposure from pending crops was less than 10% of the cPAD for all subpopulations. Additional refinements such as the use of anticipated residues would further reduce the estimated chronic dietary exposure.

TABLE 1.—CHRONIC DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN CONSIDERING ALL PENDING CROP USES

Population Subgroups	Exposure Estimate (mg/kg bw/day)*	%cPAD**
U.S. population	0.001203	3.5
All infants	0.001291	3.8
1–2 years	0.003066	9.0
3–5 years	0.002570	7.6
1–6 years	0.002644	7.8
6–12 years	0.001571	4.6
13–19 years	0.001093	3.2
Females 13–49 years	0.00984	2.9
Adults 20–49 years	0.000981	2.9
Males 20+ years	0.000981	2.91
Adults 50+ years	0.001001	2.9

* Exposure estimates are based on tolerance values (except measured residue values for vegetables, leafy, except brassica, group 4), default processing factors, and percent crop treated values.

** %cPAD = Percent of chronic Population Adjusted Dose.

As Table 2. shows, the estimated acute dietary exposure was under the aPAD at the 99th and 99.9th percentile. The overall general U.S. population and the most sensitive subpopulation (females 13–49 years) utilized < 5.0% (99th percentile) and 16.1% (99.9th percentile), and < 29.3% (99th percentile) and 93.7% (99.9th percentile) of the aPAD, respectively. Because the FQPA safety factor was reduced to 1X, the aPAD has the same percentage utilization as the aRfD. Additional refinements such as the use of anticipated residues would further reduce the estimated acute dietary exposure.

TABLE 2.—ACUTE DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN CONSIDERING ALL PENDING CROP USES

Population Subgroups	99th Percentile Exposure Estimate (mg/kg bw/day)*	99th Percentile %aPAD**	99.9th Percentile Exposure Estimate (mg/kg bw/day)*	99.9th Percentile %aPAD**
U.S. population	0.014826	4.94	0.048341	16.11
All infants	0.01440	4.80	0.170066	56.69
1–2 years	0.022461	7.49	0.097773	32.59
3 1–5 years	0.021029	7.01	0.067374	22.46
1–6 years	0.021258	7.09	0.074864	24.95
6–12 years	0.013174	4.39	0.043177	14.39
13–19 years	0.009803	3.27	0.034995	11.67
Females 13–49 years	0.014631	29.26	0.046863	93.73
Adults 20 1–49 years	0.013942	4.65	0.045725	15.24
Males 20+ years	0.012556	4.19	0.040721	13.57
Adults 50+ years	0.014673	4.89	0.046918	15.64

* Exposure estimates are based on tolerance values (except measured residue values for vegetables, leafy, except brassica, group 4); default processing factors; and percent crop treated values.
** %aPAD = Percent of acute Population Adjusted Dose.

To ensure that these additional uses on the proposed crops fit within the total risk cup, a dietary exposure assessment (considering tolerance values; anticipated residues for measured residue values for vegetables, leafy, except brassica, group 4; concentration/processing factors; and percent crop treated values) was conducted using all currently registered and proposed crop uses (from both IR–4 and BASF) for pyraclostrobin. This assessment also included the current tolerance values for secondary residues in meat, meat byproducts, liver, and milk. The maximum chronic exposure estimates remained below 25% of the cPAD for the U.S. and all subgroup populations. The acute dietary exposure was 6% (99th percentile) and 16.7% (99.9th percentile) of the aPAD for the general U.S. population. For females (13–49 years), the most sensitive subpopulation, the acute dietary exposure was 31.1% (99th percentile) and 95.9% (99.9th percentile) of the aPAD. Additional refinements with anticipated residues rather than tolerance values would further reduce the estimated dietary exposures.

Results of the chronic (Table 3.) and acute (Table 4.) dietary exposure analysis demonstrate a reasonable certainty that no harm to the general U.S. population or any subpopulation would result from the use of pyraclostrobin on any of the currently registered or pending crops (both IR–4 and BASF uses).

TABLE 3.—CHRONIC DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN (BAS 500 F) CONSIDERING ALL CROP USES FOR BOTH CURRENT AND PENDING TOLERANCES

Population Subgroups	Exposure Estimate (mg/kg bw/day)*	%cPAD **
U.S. population	0.004635	13.63
All infants	0.004319	12.70
1–2 years	0.010358	30.46
3–5 years	0.008391	24.68
1–6 years	0.00882	25.94

TABLE 3.—CHRONIC DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN (BAS 500 F) CONSIDERING ALL CROP USES FOR BOTH CURRENT AND PENDING TOLERANCES—Continued

Population Subgroups	Exposure Estimate (mg/kg bw/day)*	%cPAD **
6–12 years	0.005745	16.90
13–19 years	0.003896	11.46
Females 13–49 years	0.004116	12.11
Adults 20–49 years	0.004076	11.99
Males 20+ years	0.003926	11.55
Adults 50+ years	0.004076	11.99

* Exposure estimates based on tolerance values for most crops; anticipated residues for vegetables, leafy, except brassica, group 4; actual and default concentration/processing factors; and percent crop treated values.
** %cPAD = Percent of chronic Population Adjusted Dose.

TABLE 4.—ACUTE DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN CONSIDERING ALL CROP USES FOR BOTH CURRENT AND PENDING TOLERANCES

Population Subgroups	99th Percentile Exposure Estimate (mg/kg bw/day)*	99th Percentile %aPAD**	99.9th Percentile Exposure Estimate (mg/kg bw/day)*	99.9th Percentile %aPAD **
U.S. population	0.017857	5.95	0.049950	16.65
All infants	0.024342	8.11	0.171591	57.20
1–2 years	0.029415	9.80	0.103802	34.60
3–5 years	0.025813	8.60	0.071777	23.93
1–6 years	0.027509	9.17	0.079941	26.65
6–12 years	0.016407	5.47	0.045736	15.25
13–19 years	0.013536	4.51	0.040675	13.56
Females 13–49 years	0.015546	31.09	0.047942	95.88
Adults 20–49 years	0.014934	4.98	0.046574	15.52
Males 20+ years	0.013838	4.61	0.042017	14.01
Adults 50+ years	0.015641	5.21	0.048111	16.04

* Exposure estimates based on tolerance values for most crops; anticipated residues for vegetables, leafy, except brassica, group 4; actual and default concentration/processing factors; and percent crop treated values.
** %aPAD = Percent of acute Population Adjusted Dose.

ii. *Drinking water*. There are no established maximum contaminant levels or health advisory levels for residues of pyraclostrobin or its metabolite in drinking water. A tier 1 drinking water modeling assessment for pyraclostrobin using the Food Quality Protection Act (FQPA) Index Reservoir Screening Tool (FIRST) model (for surface water) and Screening Concentration in Groundwater (SCI-GROW) model (for groundwater) produced estimated maximum concentrations of 20.4 parts per billion (ppb) (acute surface water), 0.79 ppb (chronic surface water) and 0.009 ppb (acute and chronic groundwater). These estimated concentrations are less than Drinking Water Levels of Concern (DWLOC), which are the worst-case calculated acceptable levels of pyraclostrobin residues in drinking water based on acute and chronic aggregate exposure for both registered and pending crops (see Tables 5., 6., 7., and 8.).

TABLE 5.—PYRACLOSTROBIN CHRONIC DRINKING WATER EXPOSURE ESTIMATES FOR ALL PENDING CROP USES

Chronic DWLOC	Adults (20–49)	Females (13–49)	Children (1–6 years)	Infants (birth to 1)
No effect level	3.4	3.4	3.4	3.4
Safety factor	100	100	100	100
RfD	0.034	0.034	0.034	0.034
cPAD	0.034	0.034	0.034	0.034
A) Chronic food (mg/kg/day)	0.000981	0.000984	0.002644	0.001291
B) Residential (mg/kg/day)	0	0	0	0
Water cPAD (A + B)	0.0330	0.0330	0.0314	0.0327
Chronic DWLOC (μg/L)	1167.3	1001.7	316.9	328.9
DECs*: FIRST Surface water (μg/L) SCI-GROW Groundwater (μg/L)	 0.79 0.009	 0.79 0.009	 0.79 0.009	 0.79 0.009

* Drinking Water Estimated Concentrations (DECs).

TABLE 6.—PYRACLOSTROBIN ACUTE DRINKING WATER EXPOSURE ESTIMATES FOR ALL PENDING CROP USES

Acute DWLOC	Adults (20–49)	Females (13–49)	Children (1–6 years)	Infants (birth to 1)
No effect level	300	5	300	300
Safety factor	100	100	100	100
RfD	0.3	0.05	0.3	0.3
aPAD	0.3	0.05	0.3	0.3
A) Acute food (mg/kg/day)*	0.045725	0.046863	0.074864	0.170066
B) Residential (mg/kg/day)	0	0	0	0
Water aPAD (A + B)	0.254275	0.003137	0.225136	0.129934
Acute DWLOC (µg/L)	104602.61	1160.64	29673.16	29754.03
DECs: FIRST Surface water (µg/L) SCI-GROW Groundwater (µg/L)	 20.4 0.009	 20.4 0.009	 20.4 0.009	 20.4 0.009

* 99.9th percentile.

TABLE 7.—PYRACLOSTROBIN CHRONIC DRINKING WATER EXPOSURE ESTIMATES CONSIDERING ALL CROP USES FOR BOTH CURRENT AND PENDING TOLERANCES

Chronic DWLOC	Adults (20–49)	Females (13–49)	Children (1–6 years)	Infants (birth to 1)
No effect level	3.4	3.4	3.4	34
Safety factor	100	100	100	100
RfD	0.034	0.034	0.034	0.034
cPAD	0.034	0.034	0.034	0.034
A) Chronic food (mg/kg/day)	0.001788	0.001788	0.006654	0.003213
B) Residential (mg/kg/day)	0	0	0	0
Water cPAD (A + B)	0.0322	0.0322	0.0273	0.0308
Chronic DWLOC (µg/L)	1052.6	896.5	251.8	296.8
DECs: FIRST Surface water (µg/L) SCI-GROW Groundwater (µg/L)	 0.79 0.009	 0.79 0.009	 0.79 0.009	 0.79 0.009

TABLE 8.—PYRACLOSTROBIN ACUTE DRINKING WATER EXPOSURE ESTIMATES CONSIDERING ALL CROP USES FOR BOTH CURRENT AND PENDING TOLERANCES

Acute DWLOC	Adults (20–49)	Females (13–49)	Children (1–6 years)	Infants (birth to 1)
No effect level	300	5	300	300
Safety factor	100	100	100	100
RfD	0.3	0.05	0.3	0.3
aPAD	0.3	0.05	0.3	0.3
A) Acute food (mg/kg/day)*	0.046574	0.047942	0.079941	0.171591
B) Residential (mg/kg/day)	0	0	0	0
Water aPAD (A + B)	0.253426	0.002058	0.220059	0.128409
Acute DWLOC (µg/L)	104602.61	1160.64	29673.16	29754.03
DECs: FIRST Surface water (µg/L)	 20.4	 20.4	 20.4	 20.4

TABLE 8.—PYRACLOSTROBIN ACUTE DRINKING WATER EXPOSURE ESTIMATES CONSIDERING ALL CROP USES FOR BOTH CURRENT AND PENDING TOLERANCES—Continued

Acute DWLOC	Adults (20–49)	Females (13–49)	Children (1–6 years)	Infants (birth to 1)
SCI-GROW Groundwater (µg/L)	0.009	0.009	0.009	0.009

* 99.9th percentile.

iii. *Food plus water*. The dietary exposure to pyraclostrobin residues is summarized in tables 9. and 10.

TABLE 9.—ESTIMATED DIETARY EXPOSURE TO PYRACLOSTROBIN RESIDUES FROM FOOD AND WATER CONSIDERING ALL PENDING CROP USES

Exposure	Infants (0–1 years)	Children (1–6 years)	Adults (20–49 years)	Females (13–49 years)
Food:				
Acute exposure (mg/kg bw/day)*	0.170066	0.074864	0.045725	0.046863
Chronic exposure (mg/kg bw/day)	0.001291	0.002644	0.000981	0.000984
%aPAD	56.7	24.9	15.24	93.7
%cPAD	3.8	7.8	2.9	2.9
Water:				
Acute exposure (mg/kg bw/day)	0.00204	0.00136	0.000583	0.000648
Chronic exposure (mg/kg bw/day)	0.0000009	0.000001	0	0
%aPAD	0.68	0.45	0.19	1.3
%cPAD	0	0	0	0
Food + Water:				
Acute exposure (mg/kg bw/day)	0.172106	0.076224	0.046308	0.047511
Chronic exposure (mg/kg bw/day)	0.0012919	0.002645	0.000981	0.000984
%aPAD	57.38	25.35	15.43	95
%cPAD	3.8	7.8	2.9	2.9

* 99.9th percentile.

TABLE 10.—ESTIMATED DIETARY EXPOSURE TO PYRACLOSTROBIN RESIDUES FROM FOOD AND WATER CONSIDERING ALL CURRENTLY REGISTERED AND PROPOSED CROP USES

Exposure	Infants (0–1 years)	Children (1–6 years)	Males (20–49 years)	Females (13–49 years)
Food:				
Acute exposure (mg/kg bw/day)	0.171591	0.079941	0.042017	0.047942
Chronic exposure (mg/kg bw/day)	0.003213	0.006654	0.001813	0.001781
%aPAD	57.2	26.6	14	95.9
%cPAD	9.5	19.6	5.3	5.2
Water:				
Acute exposure (mg/kg bw/day)	0.00204	0.00136	0.000583	0.000648
Chronic exposure (mg/kg bw/day)	0.0000009	0.000001	0	0
%aPAD	0.68	0.45	0.19	1.3
%cPAD	0	0	0	0
Food + Water:				
Acute exposure (mg/kg bw/day)	0.173631	0.081301	0.0426	0.04859
Chronic exposure (mg/kg bw/day)	0.0032139	0.006655	0.001813	0.001781
%aPAD	57.88	27.05	14.19	97.2
%cPAD	9.5	19.6	5.3	5.2

These results indicate that dietary exposure to pyraclostrobin (registered and all proposed crop uses), from potential residues in food and water, will not exceed EPA's level of concern (100% of aPAD or cPAD). Overall, we can conclude with reasonable certainty that no harm will occur from either acute or chronic dietary exposure to pyraclostrobin residues.

2. *Non-dietary exposure.* Pyraclostrobin is currently registered for use on golf course turf. The Agency has evaluated the existing toxicological database for pyraclostrobin and has assessed the appropriate toxicological endpoints and the dose levels of concern for this use. Dermal absorption data indicate that absorption is 14%.

D. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Pyraclostrobin is a foliar fungicide which belongs to the new class of strobilurin chemistry. It is a synthetic analog of strobilurin A, a naturally occurring antifungal metabolite of the mushroom Strobillurus tenacellus. The active ingredient acts in the fungal cell through inhibition of electron transport in the mitochondrial respiratory chain at the position of the cytochrome-bc1 complex. The protective effect is due to the resultant death of the fungal cells by disorganization of the fungal membrane system. Pyraclostrobin also acts curatively to prevent the increase and spread of fungal infections by inhibiting mycelial growth and sporulation on the leaf surface. BAS 500 F inhibits spore germination, germ tube growth, and penetration into the host tissues.

EPA is currently developing methodology to perform cumulative risk assessments. At this time, there are no available data to determine whether BAS 500 F has a common mechanism of toxicity with other substances or to show how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyraclostrobin does not appear to produce a toxic metabolite that is also produced by other pesticides.

E. Safety Determination

1. *U.S. population.* Adding the proposed uses to those crops that are already on the pyraclostrobin label resulted in aggregate exposure of adults in the U.S. population to pyraclostrobin that utilized at most 67% of the aPAD and 40% of the cPAD. Therefore, no harm to the overall U.S. population would result from the use of pyraclostrobin on the proposed and existing crop uses.

2. *Infants and children.* All subpopulations based on age were considered. The highest potential exposure was predicted for the subgroup children (1–6 years old). Using the FQPA Safety Factor of 3X when appropriate, the addition of the proposed crops to those on the label would use less than 1% of the aPAD and 89% of the cPAD for children (1–6 years old). BASF therefore concludes that there is reasonable certainty that no harm will result to infants or children from aggregate exposure to pyraclostrobin residues on the proposed and existing crop uses.

F. International Tolerances

Maximum Residue Levels (MRLs) have been established for pyraclostrobin in Canada but no MRLs have been established by the Codex Alimentarius Commission.

[FR Doc. 04–19627 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0271; FRL–7676–7]

Iodine-potassium iodide; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0271, must be received on or before September 27, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9354; e-mail address: *waller.mary@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–2004–0271. 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, 1801 S. Bell St., 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/*.

An electronic version of the public docket is available through EPA's

electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

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.

C. 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 ID number 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 I.D. 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 in this unit, 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. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0271. 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 e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2004–0271. 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 I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2004–0271.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number OPP–2004–0271. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public

docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 20, 2004.

Betty Shackleford,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Ajay North America L.L.C.

PP 3E6572

EPA has received a pesticide petition (3E6572) from Ajay North America L.L.C., 1400 Industry Road, Powder Springs, Georgia 30127 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for iodine-potassium iodide in or on the raw agricultural commodities bananas, grapes, and melons. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The primary residue of iodine-potassium iodide (AJ1629) is the inorganic halide, iodide (I). In the presence of organic matrices such as food items, the iodine in the iodine-potassium iodide complex is very rapidly reduced to iodide (I), with a reaction rate on the order of seconds. Due to the natural occurrence in all fruits and vegetables of anti-oxidants, which are the likely agents in this reduction, there is little likelihood of iodine remaining intact in any crop matrix.

2. *Analytical method*. A residue method was developed which converts all iodine species present to the iodide ion, which is then quantitated (This methodology measures total iodine in the crop, similar to the method used in the Food and Drug Administration (FDA) Total Diet Study). Since iodine is naturally present in most foods, there is a natural background level of iodine that varies by crop and location. (Natural levels of iodine in the environment are higher in coastal areas due to the proximity to oceanic sources of the element).

3. *Magnitude of residues*. The results of the Chilean and Costa Rican non-GLP residue studies demonstrate that the average residues found in the soil-treated grapes and melons and foliar applied banana crops are virtually identical to the residues found in the control samples. In the Chilean grape trials AJ1629 34EC was applied to the soil at a variety of rates. The average residue for treated Thompson grapes was 0.39 parts per million (ppm) compared to 0.40 ppm for untreated Thompson grapes. The average residue for treated Red Globe grapes was 0.21 ppm, compared to 0.22 ppm for untreated Red Globe grapes. AJ1629 EC was also used in a foliar application to bananas in Costa Rica. Iodine residues in the whole treated bananas ranged from non-detectable to 0.11 ppm, in comparison to the untreated bananas with a range of residues from non-detectable to 0.13 ppm. Residues were below the limit of quantitation (0.05 ppm) in both treated and control banana pulp samples. In Costa Rican melon samples, iodide was not detected in either control or AJ1629 treated samples.

B. Toxicological Profile

Iodine is an essential element necessary to maintain human health and normal function of the thyroid gland. The effects of both iodine deficiency and excessive iodine intake in humans are well known and have been documented in a robust body of scientific literature. The levels of iodine intake considered optimal for various populations are based on Recommended Daily Allowances (RDAs) established by various Agencies. The proposed uses of iodine for disease and nematode control on grapes and melons, and for disease control on banana plants would not result in significant changes in iodine intake for any populations or subpopulations. Thus, the proposed use will not have any impact on individuals or subpopulations that are currently at risk for either deficiencies or excesses in iodine intake.

There is universal agreement on the dangers of iodine deficiency. Iodine deficiency is well known to result in a range of disorders including hypothyroidism, goiter, reproductive impairment and developmental abnormalities. While it is clear that excess iodine intake can cause adverse health effects, there are differences of opinion in the scientific community

with regard to the dangers of iodine excess. Health professionals consider the risk of iodine deficiency to be a more serious concern than the risk of excess dietary iodine.

A number of organizations, including Agency for Toxic Substances and Disease Registry (ATSDR), International Programme on Chemical Safety (IPCS), National Academy of Sciences, and the Joint Food and Agriculture Organization/World Health Organization (FAO/WHO) Expert Committee on Food Additives, have reviewed the literature regarding iodine and detailed its effects on human health. The toxicology information provided below has been assembled primarily from these sources.

Iodine has been approved by FDA for use in drugs and has been deemed GRAS as a food additive. There are also a number of antimicrobial uses already approved by the EPA for iodine and iodophors including sanitization of food handling equipment. A cleared review dated February 26, 1993 (Case No.3080, Toxicology Branch, Phase 4 Review, Pat McLaughlin) indicated that iodine and potassium iodide are well known in the literature, and while iodine is very irritating, it is not very toxic internally. EPA accepted the interchangeability of iodine and potassium iodide (EPA Cleared review dated July 5, 1996, Iodine Greybeard submission No. S496959, Toxicology Branch, Sanjivani Diwan). Potassium iodide is not toxic and has been deemed GRAS by the FDA as a food additive.

In an FDA Assessment entitled ''Potassium Iodide and Potassium and Calcium Iodates: Proposed Affirmation of GRAS Status as Direct Human Food Ingredients with Specific Limitations'' (42 FR 29925, June 10, 1977), the opinion of the Select Committee was that ingested potassium iodine and other iodides are readily absorbed and utilized to the extent required for nutritional needs, the excess being excreted primarily in the urine. There was no evidence in the studies on experimental animals and man available to the Committee that indicated acute or chronic toxic effects, including mutagenic, teratogenic, and carcinogenic effects, resulting from the consumption of potassium iodide by euthyroid individuals in amounts that are several orders of magnitude greater than those now being consumed in the daily diet.

In the 2002 National Academy of Sciences Report, the RDA of iodine for adult men and women is 0.15 mg/day (150 µg/day) and the Tolerable Upper Intake Level for adults is 1.1 mg/day. Intake varies considerably from day to day and the RDAs are based on average intakes. The RDA for children 1-8 years old is 0.09 milligram/day (mg/day) (90 µg/day). The Tolerable Upper Intake Level is 0.2 mg/day for children 1-3 years old, 0.3 mg/day for children 4-8 years old and 0.6 mg/day for children 9-13. The Tolerable Upper Intake Level is 0.9 mg/day for adolescents 14-18 years of age.

The Joint FAO/WHO Expert Committee on Food Additives assessed the human data on iodine for the purpose of establishing a maximum tolerated daily intake [661. Iodine (WHO Food Additives Series 24)]. The assessment concluded that iodine is an essential dietary element which is required for synthesis of thyroid hormones. The Committee concluded that the human response to excess iodine is variable and that the maximum tolerable level of iodine appears to be in the range from somewhat above recommended dietary allowances to one (1.0) mg/day. As indicated by Pennington (Pennington, J.A.T. (1990): A review of iodine toxicity reports. J. Am. Diet Assoc. 90: 1571-1581.), most people are very tolerant of excess iodine intake from food. Subpopulations with autoimmune thyroid disease and iodine deficiency respond adversely to intake of iodine, which would be considered safe for the general population.

The principal sources of iodine in the diet include, milk and dairy products, seafood, iodized salt and infant formula. The mean intake of iodine from food in the United States is 0.29 to 0.41 mg/day for females and males age 19 and above. For children 1-3 years old the mean intake is 0.3 mg/day, for children 4-8 years old the mean intake is 0.38 mg/day and for children 9-13 years old the mean intake is 0.38 to 0.49 mg/day. For adolescents 14-18 years of age, the mean intake is 0.33 to 0.53 mg/day. While this level of intake is considered adequate for the general population, the results of the National Health and Nutrition Examination Surveys I and III (NHANES I and III), conducted during the periods 1971–1974 and 1988–1994, respectively, show that the median iodine concentration in the population decreased more than 50% between the two surveys.

Residue trials of AJ1629 using maximum application rates on soil-treated grapes and melons and foliar applied bananas show that iodine residue levels in the food commodities are comparable for control and treated crops. Therefore, the proposed uses of iodine for disease and nematode control on grapes and melons, and for disease control on banana plants would not result in significant changes in iodine intake for any populations or subpopulations.

The toxicology data described below has been developed from human studies rather than animal studies. Therefore, an uncertainty factor is not needed to account for interspecies variability. The acute Minimal Risk Level (MRL) for iodine has been set at 0.01 milligram/kilogram/day (mg/kg/day) based on a NOAEL of 0.024 mg/kg/day for healthy adult humans. The chronic MRL is 0.01 mg/kg/day based on a no observed adverse effect level (NOAEL) of 0.01 mg/kg/day total iodide intake and a lowest observed effect level (NOAEL) of 0.029 mg/kg/day for subclinical hypothyroidism in healthy human children. An uncertainty factor is not needed to account for variability in sensitivity within species because the NOAEL is based on children, a sensitive subpopulation.

1. *Acute toxicity*. Acute oral: 315 mg/kg (Category II); acute dermal: >3,000 mg/kg Category III); acute inhalation: 0.363 mg/L (Category II); dermal irritation: corrosive (Category I); eye irritation: waived based on dermal irritation; dermal sensitization: not a sensitizer.

2. *Genotoxicty*. Iodine has been examined in a number of studies and it has not been found to be mutagenic in a variety of eukaryotic cell systems. The ATSDR draft report indicates that, ''potassium iodide, I2, and povidone iodine (0.1–10 mg/mL) did not show mutagenic effects in L5178Y mouse lymphoma cells or in transforming activity in Balb/c 3T3 cells grown in culture.'' Additionally, potassium iodide and I2 were negative for mutagenicity in drosophila melanogaster and I2 was negative in His+ revertant assay in saccharomyces cerevisiae. Iodide is a free-radical scavenger and has been shown to decrease hydrogen peroxide-induced reversion in strain TA104 of *Salmonella* typhimurium.

3. *Reproductive and developmental toxicity*—i. *Reproductive.* According to the ATSDR draft report on iodine toxicology, excessive iodine intake may result in hypothyroidism or hyperthyroidism. The effects of excess iodine on reproductive function are secondary to thyroid gland dysfunction.

To counteract the negative effects of iodine deficiency during pregnancy, the RDA for iodine in pregnant women is higher than that for the general population. In addition, the authors of the comparative iodine nutrition surveys, NHANES I (1971–1974) and III (1988–1994), voiced concern about the increased proportion of women of child-bearing age and pregnant women who

are in the iodine deficiency range. This trend is particularly important because iodine deficiency disorders include goiter, hypothyroidism, mental retardation, reproductive impairment, cretinism, decreased child survival and varying degrees of other growth and developmental abnormalities. The most damaging effect of iodine deficiency is on the developing brain. If severe enough to affect thyroid hormone synthesis during fetal and postnatal life, iodine deficiency will result in hypothyroidism and brain damage. Such iodine deficiency, therefore, can lead to irreversible intellectual deficits with great impact on populations. Correction of iodine deficiency dramatically decreases the prevalence of these disorders. In the U.S., it is an FDA requirement that infant formula must contain supplemental iodine.

ii. *Developmental.* While there are developmental effects related to excessive iodine consumption, ATSDR indicated in their draft toxicological profile for iodine, that ''iodine deficiency is far more likely to cause prenatal and postnatal hypothyroidism and be associated with neurologic injury leading to cretinism, a developmental effect.'' Other effects that might be caused by iodine deficiency during development include severe mental retardation, neurologic abnormalities, growth retardation, or abnormal pubertal development. Iodine deficiency during pregnancy, infancy, or early childhood also may cause endemic cretinism. The symptoms of cretinism are mental and physical retardation, deaf-mutism, and various neurological abnormalities. Hypothyroidism due to iodine deficiency may be cured with iodine administration, but the effects of cretinism are not reversible. The effects of iodine deficiency on development far outweigh the effects of excess iodine intake.

4. *Subchronic toxicity.* Dietary iodine deficiency stimulates TSH secretion which results in thyroid hypertrophy. The enlargement of the thyroid gland due to iodine deficiency is called endemic goiter. Iodine intakes consistently lower than 0.050 mg/day usually result in goiter. Women and adolescent girls seem especially at risk. Most goiterous individuals are clinically euthyroid. Large goiters may cause obstructive complications of the trachea, esophagus, and blood vessels of the neck. Goiters also are associated with an increased risk of other thyroid diseases and malignant growth.

Hypothyroidism is the primary effect of subchronic exposures to excess iodine. Below are summaries of several human studies conducted with iodine over 14 to 28 day periods. The ATSDR draft report has set the MRL for acute-duration oral exposure (1-14 days) at 0.01 mg/kg/day.

Several subchronic studies on humans were reviewed by ATSDR including one conducted on 18 healthy male and female adults over 14 days at daily oral doses of 1.5 mg I/day as sodium iodide with a background intake of 0.2 mg/day. The total iodide intake was approximately 1.7 mg I/day (approximately 0.024 mg/kg/day). There were significantly depressed serum concentrations of TT4, FT4 and TT3 and significantly elevated serum TSH concentrations compared with pretreatment levels. Hormone levels were within the normal range and, therefore, the subjects were not clinically hypothyroid.

Another study was conducted on ten healthy male adults over a 14–day period using oral doses of 0, 0.5, 1.5 and 4.5 mg I/day as sodium iodide. Including a background iodide intake of between 0.25–0.32 mg/day, total intake was 0.3, 0.8, 1.8 and 4.8 mg/day. These levels are approximately equivalent to 0.004, 0.011, 0.026 and 0.069 mg/kg/day. Small but significant, transient decreases in serum TT4 and FT4 concentrations and an increase in serum TSH concentrations were seen at the 1.8 and 4.8 mg/day dose level relative to the pretreatment values. The magnitude of the changes at the higher iodide dosages yielded hormone concentrations that were within the normal range and, thus, would not represent clinically significant thyroid suppression.

A 14 to 28 day study was conducted on 30 elderly adult females given daily doses of 0.5 mg I/day, with a background exposure of about 0.072–0.1 mg/day, for a total iodide intake of 0.6 mg/day or 0.0086 mg/kg/day. There were significantly decreased serum concentrations of FT4 but, on average, the magnitude of the changes did not produce clinically significant depression in thyroid hormone levels. Five subjects had serum TSH concentrations typically considered at the high end of the normal range.

5. *Chronic toxicity.* Severe and prolonged iodine deficiency results in deficient supply of thyroid hormones. This condition, which is referred to as hypothyroidism or myxedema, is characterized by reduced metabolic rate, cold intolerance, weight gain, puffy facial features, edema, a hoarse voice, and mental sluggishness.

Chronic exposure to an excess of iodine primarily results in conditions such as hypothyroidism, hyperthyroidism, and/or thyroid autoimmunity. A NOAEL of 0.01 mg/kg/day and a LOAEL of 0.029 mg/kg/day were established for subclinical hypothyroidism in healthy human children. This NOAEL was used to set the MRL of 0.01 mg/kg/day for humans. The NOAEL was not adjusted for sensitivity, because it was based upon a sensitive subpopulation, children. The LOAEL based upon slight thyroid enlargement is not indicative of functional impairment.

Studies have shown that the chronic MRL for children, adults and the elderly is the same.

6. *Animal metabolism.* The above proposed iodine potassium- iodide uses do not include any animal feed items; therefore, animal metabolism data are not necessary.

7. *Metabolite toxicology.* There are no metabolites of toxicological concern.

8. *Endocrine disruption.* The thyroid effects normally associated with iodine result from either a deficiency or from excessive iodine intake as noted in the toxicology discussion above. The principal direct effects of excessive iodine ingestion on the thyroid gland are hypothyroidism, hyperthyroidism and thyroiditis. Most iodine-induced hypothyroidism is transient. Epidemiological and clinical literature suggests that hyperthyroidism occurs most often in people who have a previous history of iodine deficiency, goiter or thyroid disease. Thyroiditis is an inflammation of the thyroid gland which is often secondary to thyroid gland autoimmunity. The proposed use of iodine will not add to overall intake or exposure, and therefore will not increase risk of endocrine disruption.

9. *Additional information..* Iodine deficiency disorders include goiter, hypothyroidism, mental retardation, reproductive impairment, cretinism, decreased child survival and varying degrees of other growth and developmental abnormalities. The most damaging effect of iodine deficiency is on the developing brain. If severe enough to affect thyroid hormone synthesis during fetal and postnatal life, iodine deficiency will result in hypothyroidism and brain damage. Correction of iodine deficiency dramatically decreases the prevalence of these disorders. Thus, in the United States, infant formula must contain 0.005 to 0.075 mg (5 to 75 μg) of iodine per 100 kilocalories.

As indicated by Pennington (1990), most people are very tolerant of excess iodine intake from food. Subpopulations with autoimmune thyroid disease and iodine deficiency respond adversely to intake of iodine, which would be considered safe for the general population. The principal effects of

excess iodine intake for the general population are thyroiditis, goiter, hypothyroidism, hyperthyroidism, sensitivity reactions, thyroid papillary cancer, and acute responses in some individuals. There may be other unrecognized sources (i.e., in addition to food, water, and supplements) of iodine that increase the risk of adverse effects. Available evidence clearly corroborates that the adverse effects of iodine deficiency far outweigh the risks associated with the ingestion of excess iodine.

C. Aggregate Exposure

1. *Dietary exposure.* An exemption from the requirement of tolerance is proposed for iodine-potassium iodide on bananas, grapes, and melons. For purposes of assessing the potential dietary exposure to iodine, a review of the open literature has been conducted.

i. *Food.* Nearly every food (raw agricultural commodity or processed/prepared food item) contains measurable amounts of iodine. As discussed in the Residue Chemistry, Magnitude of the Residues section (A.3.), residue studies conducted to date for AJ1629 demonstrated that residues from AJ1629 in the soil-treated grapes and melons and foliar applied banana crops are virtually identical to the residues found in the control samples. Therefore, exposure to iodine through dietary intake is not expected to increase due to the use of AJ1629.

ii. *Drinking water.* An exposure assessment for drinking water is not necessary due to the proposed use pattern of iodine-potassium iodide.

2. *Non-dietary exposure.* Iodine is widely used in disinfectants, germicides, and related products. These products are readily available and have been widely used for many years. A non-dietary exposure assessment is not necessary due to the proposed use pattern of iodine-potassium iodide.

D. Cumulative Effects

To our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by iodine would be cumulative with those of other chemical compounds; thus only the potential risks of iodine have been considered in this assessment of its aggregate exposure.

E. Safety Determination

1. *U.S. population.* Iodine is a naturally occurring element, present in air, soil, water and food at levels that vary, depending on geographic location. It is ubiquitous and is found in all non-treated crops in varying amounts. Residue studies with crops from AJ1629 trials have shown that the average residues of iodine (as iodide) in treated crops are indistinguishable from residues in untreated crops. Since the dietary intake of iodine is not expected to increase because of the proposed uses of AJ1629, there is a reasonable certainty that no harm will result from its use.

2. *Infants and children.* As noted above, iodine is a naturally occurring element that infants and children will be exposed to through a variety of sources including water and food. In the U.S. iodine is a mandated nutrient in baby formula, required to be present at levels of 5 to 75 micrograms/100 kilocalories of formula. Residues from the use of AJ1629 are virtually indistinguishable from residues in untreated crops, therefore, exposure from pesticidal use will be very minimal.

F. International Tolerances

There are no known international tolerances for residues of iodine-potassium iodide in food or animal feed.

[FR Doc. 04–19620 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0270]; FRL–7675–2]

Fenhexamid; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0270, must be received on or before September 27, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@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. 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. Other types of entities not listed in this unit could also be affected. 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 ID number OPP–2004–0270. 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, 1801 S. Bell St., 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/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/*

to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

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.

C. 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 ID number 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 I.D. 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 in this unit, 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. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0270. 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 e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0270 . 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 I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–-0001, Attention: Docket ID Number OPP– 2004–0270.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0270. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM

clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 20, 2004.

Betty Shackleford,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 3E6799

EPA has received a pesticide petition (PP 3E6799) from the IR-4 Project, Center for Minor Crop Pest Management, Technology Centre of New Jersey. Rutgers, the State University of New Jersey, 681 U.S. Highway 1 South, North Brunswick, NJ 08902–3390 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.553 by establishing tolerances for residues of the fungicide, fenhexamid, (N-2,3-dichloro-4-hydroxypheny)-1-methyl cyclohexanecarboxamide), in or on the raw agricultural commodity fruit, pome, group 11 pre- and post-harvest at 10.0 parts per million (ppm) and apple, wet pomace at 25 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition. The petition summary was prepared by the registrant, Arvesta Corporation, 100 First Street, San Francisco, CA 94106.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of fenhexamid residues in plants is adequately understood.
2. *Analytical method*. An adequate method for purposes of enforcement of the proposed fenhexamid tolerances in plant commodities is available.
3. *Magnitude of residues*. The magnitude of residues for fenhexamid on the proposed commodities is adequately understood.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral toxicity study resulted in a lethal dose (LD_{50}) of > 5,000 milligrams/kilogram(mg/kg) for both sexes. The acute dermal toxicity in rats resulted in an LD_{50} of > 5,000 mg/kg for both sexes. The acute inhalation was investigated in two studies in rats. Inhalation by aerosol at the maximum technically possible concentration of 0.322 mg/liter(L) resulted in no deaths or symptoms at lethal concentration $(LC)_{50}$ > 0.322 mg/L). A dust inhalation study resulted in a LC_{50} > 5.057 mg/L. Fenhexamid was not irritating to the skin or eyes after a 4-hour exposure period. The Buehler dermal sensitization study in guinea pigs indicated that fenhexamid is not a sensitizer. Based on these results fenhexamid technical is placed in toxicity Category IV and Arvesta concludes that fenhexamid does not pose any acute dietary risks.

2. *Genotoxicity*. The potential for genetic toxicity of fenhexamid was evaluated in six assays including two Ames tests, a HGPRT forward mutation assay, an unscheduled DNA synthesis (UDS) assay, an *in vitro* chromosomal aberration assay in Chinese hamster ovary (CHO) cells, and a micronucleus test in mice. The compound was found to be devoid of any mutagenic activity in each of these assays; including those tests that investigated the absence or presence of metabolic activating systems. Arvesta believes the weight of evidence indicates that fenhexamid technical does not pose a risk of mutagenicity or genotoxicity.

3. *Reproductive and developmental toxicity*.—i. In a 2–generation reproduction study (one mating per generation), 30 Sprague-Dawley rats per sex per dose were administered 0, 100, 500, 5,000, or 20,000 ppm of fenhexamid in the diet. The reproductive toxicity no observed adverse effect level (NOAEL) was 20,000 ppm. The neonatal NOAEL was 500 ppm, and the lowest observed adverse effect level (LOAEL) was 5,000 ppm based on decreased pup body weight. The parental toxicity NOAEL was 500 ppm based on lower adult pre-mating body weights at 5,000 and 20,000 ppm, lower gestation body weights at 20,000 ppm, lower lactation body weights at 5,000 and 20,000 ppm, and statistically significant changes in clinical chemistry parameters, terminal body weights, and organ weights at 5,000 and 20,000 ppm. Based on this study, Arvesta concludes that the only toxic effects in the neonates occurred at parentally toxic doses.

ii. In rats, fenhexamid was administered by gavage at doses of 0 or 1,000 mg/kg for gestation days 6-15. No maternal toxicity, embryotoxicity, fetotoxicity, or teratogenic effects were observed at the limit dose of 1,000 mg/kg/day. Therefore, the NOAEL for maternal and developmental toxicity was 1,000 mg/kg/day.

iii. In rabbits, fenhexamid was administered by gavage at doses of 0,

100, 300, and 1,000 mg/kg for gestation days 6-18. Body weight gain and feed consumption of the dams were reduced at the two top doses. One abortion occurred in each of the top two dose groups and two total resorptions occurred in the top dose group. The placental weights were slightly decreased at 300 mg/kg/day and above. In the 1,000 mg/kg/day group, slightly decreased fetal weights and a slightly retarded skeletal ossification were observed. All other parameters investigated in the study were unaffected. Therefore, the NOAELs for maternal and developmental toxicity were 100 mg/kg/day in this study.

Based on the 2–generation reproduction study in rats, Arvesta concludes that fenhexamid should not be considered a reproductive toxicant and shows no evidence of endocrine effects. The data from the developmental toxicity studies on fenhexamid show no evidence of a potential for developmental effects (malformations or variations) at doses that are not maternally toxic. The NOAEL for both maternal and developmental toxicity in rats was 1,000 mg/kg/day, and for rabbits the NOAEL for both maternal and developmental toxicity was 100 mg/kg/day.

4. *Subchronic toxicity*.—i. Fenhexamid was administered in the diet to rats for 13 weeks at doses of 0, 2,500, 5,000, 10,000, and 20,000 ppm. The NOAEL was 5,000 ppm (415 mg/kg/day in males and 549 mg/kg/day in females). Reversible liver effects were observed at 10,000 ppm.

ii. Fenhexamid was administered in the diet to mice for approximately 14 weeks at doses of 0, 100, 1,000, and 10,000 ppm. The NOAEL was 1,000 ppm (266.6 mg/kg/day in males and 453.9 mg/kg/day in females). Increased feed and water consumption and kidney and liver effects were observed at 10,000 ppm.

iii. Fenhexamid was administered in the diet to beagle dogs for 13 weeks at doses of 0, 1,000, 7,000, and 50,000 ppm. The NOAEL was 1,000 ppm (33.9 mg/kg/day in males and 37.0 mg/kg/day in females). Increased Heinz bodies were observed at 7,000 ppm. .

5. *Chronic toxicity*—i. Fenhexamid was administered in the feed at doses of 0, 500, 3,500, or 25,000 ppm to 4 male and 4 female beagle dogs per group for 52 weeks. A systemic NOAEL of 500 ppm (an average dose of 17.4 mg/kg/day over the course of the study) was observed based on decreased food consumption and decreased body weight gain at 25,000 ppm, decreased erythrocyte, hemoglobin and hematocrit values at 25,000 ppm, increased Heinz bodies at 3,500 ppm and above, and a dose-dependent increase of alkaline phosphatase at 3,500 ppm and above. There were no treatment related effects on either macroscopic or histologic pathology.

ii. A combined chronic/oncogenicity study was performed in Wistar rats. Fifty animals/sex/dose were administered doses of 0, 500, 5,000, or 20,000 ppm for 24 months in the feed. A further 10 animals/sex/group received the same doses and were sacrificed after 52 weeks. The doses administered relative to body weight were 0, 28, 292, or 1,280 mg/kg/day for males and 0, 40, 415, or 2,067 mg/kg/day for females. The NOAEL in the study was 500 ppm (28 mg/kg/day for males and 40 mg/kg/day for females) based on body weight decreases in females at 5,000 ppm and above, changes in biochemical liver parameters in the absence of morphological changes in both sexes at 5,000 ppm and above, and caecal mucosal hyperplasia evident at 5,000 ppm and above.

The NOAEL in the chronic dog study was 17.4 mg/kg/day based on body weight, hematology and clinical chemistry effects. The lowest NOAEL in the 2-year rat study was determined to be 28 mg/kg/day based on body weight, clinical chemistry parameters in the liver, and caecal mucosal hyperplasia.

6. *Animal metabolism*.—i. A lactating goat was dosed at 10 milligrams (mg) ^{14}C- fenhexamid per kilograms/bodyweight on 3 consecutive days at 24-hour intervals. Fenhexamid was rapidly and almost completely absorbed, distributed and eliminated (24.9% in urine, 38.6% in feces, and 0.03% in milk). The half-life of biliary-fecal elimination (primary pathway) was 0.5 hours. The primary residues in tissues were unreacted fenhexamid, its glucuronide derivative and the 4-hydroxy derivative.

ii. Rats were administered radiolabeled fenhexamid (a single oral low dose of 1 mg/kg, a single oral high dose of 100 mg/kg, or 15 repeated low doses of 1 mg/kg/day). Radiolabeled fenhexamid was rapidly eliminated and tissue residues declined rapidly. After 48 hours the total radioactivity residue in the body excluding the GI tract, was < 0.3% of the administered dose in all dose groups. Excretion was rapid and almost complete with feces as the major route of excretion. Approximately 62-84% of the recovered radioactivity was found in feces, and 15-36% in urine within 48 hours post-dosing. Metabolite characterization studies showed that the main components detected in excreta were the unchanged parent compound (62-75%) and the glucuronic acid conjugate of the parent compound (4-23%). The proposed major pathway for biotransformation is via conjugation of the aromatic hydroxyl group with glucuronic acid. Identification of radioactive residues ranged from 88% to 99% and was independent of dose and sex.

7. *Metabolite toxicology*. As the primary residues found in rats and goat were the parent compound fenhexamid and its glucuronic acid conjugate, no additional metabolite toxicology studies are warranted.

8. *Endocrine disruption*. Fenhexamid has no endocrine-modulation characteristics as demonstrated by the lack of endocrine effects in developmental, reproductive, subchronic, and chronic studies.

C. Aggregate Exposure

1. *Dietary exposure*.—i. *Food*. Dietary exposure to fenhexamid is limited to the established tolerances for residues of fenhexamid on grapes (at 4.0 ppm), raisins (at 6.0 ppm), strawberries (at 3.0 ppm), almond nutmeat (at 0.02 ppm), almond hulls (at 2.0 ppm), stonefruit except plum, prune, fresh, post-harvest (at 10.0 ppm), plum, prune, dried (at 2.5 ppm); plum, prune, fresh (at 1.5 ppm); pear (at 15 ppm), bushberries (at 5.0 ppm), caneberries (at 20 ppm), pistachios (at 0.02 ppm); cucumber (at 2.0 ppm); fruiting vegetables, except non-bell peppers (at 2.0 ppm); kiwi, post-harvest (at 15.0 ppm); leafy greens, except spinach (at 30.0 ppm); and the proposed tolerances in the current submission which are as follows: Pome fruit (at 10 ppm); and apple pomace (at 25 ppm).

ii. *Drinking water*. Review of the environmental fate data indicates that fenhexamid is relatively immobile and rapidly degrades in the soil and water. Fenhexamid dissipates in the environment via several processes. Therefore, a significant contribution to aggregate risk from drinking water is unlikely.

2. *Non-dietary exposure*. There is no significant potential for non-occupational exposure to the general public. The proposed uses are limited to agricultural and horticultural use.

D. Cumulative Effects

Consideration of a common mechanism of fenhexamid toxicity is not appropriate at this time since it has a unique mode of action. Moreover, there is no significant toxicity observed for fenhexamid. Even at toxicology limit doses, only minimal toxicity is observed for fenhexamid. Therefore, only the potential risks of fenhexamid are considered in the exposure assessment.

E. Safety Determination

1. *U.S. population*. The percent of the cPAD utilized by all current uses (almonds, bushberries, caneberries, cucumbers, fruiting vegetables (except non-bell peppers), grapes, kiwifruits, leafy greens (except spinach), pears, pistachios, raisins, stonefruits and strawberries) was estimated by EPA to be 9.9% (September 26, 2003, 68 FR 55513; (FRL–7326–7)). Arvesta Corporation estimated the chronic dietary exposure to fenhexamid resulting from the use on pome fruit, using the DEEM-FCIDTM software version as had the US EPA and assuming 100 % of the crop treated and residues equal to the MRL. The percent cPAD utilized by all current and proposed uses was estimated to be 17.6%. Therefore, the estimates of dietary exposure indicate adequate safety margins for the overall U.S. population.

2. *Infants and children*. The percent of the cPAD utilized by all current uses was estimated by EPA to be 19.6% (infants < 1 year) and 21.8% (children 1 to 2 years) (September 26, 2003, 68 FR 55513; (FRL–7326–7)). Arvesta Corporation estimated the chronic dietary exposure to fenhexamid resulting from the use on pome fruit, as above. The percent cPAD utilized by all current and proposed uses was estimated to be 61.5% (infants < 1 year) and 60.0% (children 1 - 6 years). Therefore, the estimates of dietary exposure indicate adequate safety margins for children. In assessing the potential for additional sensitivity of infants and children to residues of fenhexamid, the available developmental toxicity and reproductive toxicity studies and the potential for endocrine modulation by fenhexamid were considered. Developmental toxicity studies in two species indicate that fenhexamid does not impose additional risks to developing fetuses and is not a teratogen. The 2–generation reproduction study in rats demonstrated that there were no adverse effects on reproductive performance, fertility, fecundity, pup survival, or pup development at non-maternally toxic levels. Maternal and developmental NOAELs and LOAELs were comparable, indicating no increase in susceptibility of developing organisms. No evidence of endocrine effects was noted in any study. Arvesta Corporation therefore concludes that fenhexamid poses no additional risk for infants and children and no additional uncertainty factor is warranted.

F. International Tolerances

International tomato tolerances are in effect in France, Germany, Greece, Italy, Slovenia, Spain, Turkey (1 ppm) and other EU countries (2 ppm). Kiwi tolerances are as follows: Greece, Italy and Slovenia (10 ppm). Stonefruit tolerances already exist in the USA for pre-harvest applications as well as in Canada (6 ppm), Austria (cherry, 5 ppm; plum, 2 ppm); Belgium (cherry, 5 ppm); Germany and Slovenia (cherry, 5 ppm; peach and plum, 2 ppm), Italy (cherry, 5 ppm; apricot, peach and plum, 2 ppm); Japan (peach, 1 ppm), Switzerland (cherry, 2 ppm) and the UK (plum, 1 ppm) and other EU countries (peach and plum, 1 ppm; cherry, 5 ppm)

[FR Doc. 04–19614 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0288; FRL–7676–3]

Clofentezine; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID)number OPP–2004–0288, must be received on or before September 27, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@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. 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. Other types of entities not listed in this unit could also be affected. 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 ID number OPP–2004–0288. 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, 1801 S. Bell St., 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/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket

facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

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.

C. 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 ID number 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 I.D. 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 in this unit, 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. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0288. 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 e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0288. 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 I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0288.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0288. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 20, 2004.

Betty Shackleford

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 4E6824

EPA has received a pesticide petition (PP 4E6824) from the Interregional Research Project Number 4 (IR-4), 681 U.S. Highway 1 South, North Brunswick, NJ 08902–3390, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.446 by establishing a tolerance for residues of the miticide, clofentezine, (3,6-bis (2-chlorophenyl)-1,2,4,5-tetrazine) in or on the raw agricultural commodity persimmon at 0.05 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. The registrant, Makhteshim-Agan of North America, Inc., New York, NY 10176 has prepared this summary in support of the pesticide petition. This summary does not necessarily reflect the findings of EPA. Additional data may be needed before EPA rules on the petition.

Clofentezine is marketed in the U.S. under tradenames including APOLLO SC. APOLLO®SC Ovicide/Miticide (42% active ingredient (a.i.)) is registered for use on apples, pears, almonds, walnuts, apricots, cherries, nectarines, and peaches to control European red mites and several spider mite species (tolerance for grapes is pending, petition 0F6119). APOLLO SC is an environmentally friendly, IPM-compatible product used at low dose rates, and only once per season. The product has been shown to be relatively non-toxic in studies conducted on mammals, fish, birds, aquatic invertebrates, predacious and other beneficial mites, bees, algae, and plants.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of clofentezine residues in plants is adequately understood. The metabolism of clofentezine has been studied in three crops representative of the use pattern for APOLLO SC: Apples (pome fruit), peaches (stone fruit), and grapes (vines/small fruit). In each case, unchanged clofentezine was the major extractable residue present. Non-extractable residues (fiber-bound) were negligible. Minor amounts of 2-chlorobenzonitrile, the major photo-degradation product, were detected, predominantly on the fruit surface. Dissipation of this component may be a significant route in the degradation of clofentezine on the surface of these crops. The nature of the residue in grapes, and in all the other registered crops, is therefore adequately understood. The residue of concern is the parent, clofentezine.

2. *Analytical method*. An adequate method for purposes of enforcement of the proposed clofentezine tolerance is available. An independent method validation was successfully completed, and the method was found acceptable. An extensive database of method validation data using this method on various crop commodities is available. The Limit of Quantitation (LOQ) and Minimum Detection Limit (MDL) were determined to be 0.01 ppm and 0.003 ppm, respectively. The method was forwarded to FDA for inclusion in PAM-II.

3. *Magnitude of residues*. Residue data covering the major growing area for persimmon has been submitted in support of the requested tolerance. The magnitude of residues for the proposed tolerance is adequately understood. The results demonstrate that the maximum residue of clofentezine in or on persimmon was 0.0305 ppm, measured 133 to 140 days after application (0.25 pounds active ingredient (lb a.i.)/acre).

B. Toxicological Profile

The toxicology of clofentezine has been thoroughly evaluated by EPA as part of previous regulatory actions. The studies are considered to be valid, reliable and adequate for the purposes of evaluating potential health risks and for establishing tolerances. The primary studies submitted in support of the registration of clofentezine are summarized below.

1. *Acute toxicity*. Clofentezine has a relatively low degree of acute toxicity and irritation potential. It is classified as toxicity category III for oral, dermal and inhalation toxicity, and toxicity category IV for eye and skin irritation. The acute oral lethal dose (LD_{50}) of clofentezine was determined to be >5,200 milligrams/kilograms (mg/kg) in rats and mice, >3,200 mg/kg in hamsters, and >2,000 mg/kg in beagle dogs. The acute rat dermal LD_{50} was >2,100 mg/kg. Clofentezine is considered to be practically non-irritating to eyes and skin but is considered to be a week skin sensitizer in the guinea pig maximization assay.

APOLLO SC is classified as toxicity category IV for oral toxicity and skin irritation, and as toxicity category III for dermal toxicity and eye irritation. The

acute oral LD_{50} of APOLLO SC was determined to be >5,000 mg/kg in rats; the acute dermal LD_{50} in rats was >2,400 mg/kg. APOLLO SC is considered slightly irritating to eyes and skin.

2. *Genotoxicity*. No evidence of genotoxicity was noted in a battery of *in vitro* and *in vivo* studies. Studies submitted included Ames *Salmonella* and mouse lymphoma gene mutation assay, a mouse micronucleus assay, a rat dominant lethal assay, and a gene conversion and mitotic recombination assay in yeast. Therefore, the registrant concludes that clofentezine has no potential to induce genotoxicity.

3. *Reproductive and developmental toxicity*. A multigeneration rate reproduction study was conducted at dietary concentrations of 0, 4, 40, and 400 ppm. The parental no observed adverse effect level (NOAEL) was 40 ppm based on slightly reduced body weights, increased liver weights and hepatocellular hypertrophy at 400 ppm. No treatment-related reproductive effects were noted at any dose level.

In a rat developmental toxicity study, clofentezine was administered by gavage at dose levels of 0, 320, 1, 280 and 3,200 mg/kg/day during gestation days 6 to 20. Evidence of maternal toxicity was noted at 3,200 mg/kg/day and consisted of decreased weight gain, increased liver weights and centrilobular hepatocellular enlargement. No developmental effects were observed at any dose level.

In a rabbit developmental toxicity study, clofentezine was administered by gavage at dose levels of 0, 250, 1,000 and 3,000 mg/kg/day during gestation days 7 to 28. Slight maternal toxicity (decreased maternal food consumption and weight gain) and a slight decrease in fetal weight were noted at 3,000 mg/kg/day. Thus, the NOAEL was considered to be 1,000 mg/kg/day for both maternal and developmental effects.

4. *Subchronic toxicity*. In a preliminary 90-day feeding study designed to select a suitable high dose level for a subsequent chronic rate study, clofentezine was administered to rats at dietary concentrations of 0, 3,000, 9,000 and 27,000 ppm. A significant reduction in weight gain was noted at 9,000 and 27,000 ppm. In addition, a marked, dose-related hepatomegaly and centrilobular hepatocyte enlargement was noted in all treatment groups.

In a subsequent 90-day feeding study, clofentezine was administered to rats at dietary concentrations of 0, 40, 400, and 4,000 ppm. Slightly reduced weight gain, alterations in several clinical pathology parameters, increased liver, kidney and spleen weights, and centrilobular hepatocyte enlargement were noted at 400 and/or 4,000 ppm. Thus, 40 ppm (2.8 mg/kg/day) was considered to be the NOAEL for this study.

Clofentezine was administered to beagle dogs for 90 days at dietary concentrations of 0, 3,200, 8,000 and 20,000 ppm. Increased liver weights were noted at all dose levels but no histopathological changes nor any other treatment-related effects were observed.

5. *Chronic toxicity*. In a 12-month feeding study, clofentezine was administered to beagle dogs at dietary concentrations of 0, 50, 1,000, and 20,000 ppm. An increase in adrenal and thyroid weights, as well as moderate hepatotoxicity consisting of minimal periportal hepatocyte enlargement with cytoplasmic eosinophilia, hepatomegaly and increased plasma cholesterol, triglycerides and alkaline phosphatase levels, were noted at 20,000 ppm. Evidence of slight hepatotoxicity was also noted at 1,000 ppm. Thus, the NOAEL for this study was considered to be 50 ppm (1.25 mg/kg/day).

In a 27-month feeding study, clofentezine was administered to rats at dietary concentrations of 0, 10, 40, and 400 ppm. Effects noted at 400 ppm were limited to the liver and thyroid, primarily of males, and consisted of increased liver weights, a variety of microscopic liver lesions (centrilobular hepatocyte hypertrophy and vacuolation, focal cystic hepatocellular degeneration and diffuse distribution of fat deposits), increased serum thyroxine levels, and a slight but statistically significant increase in the incidence of thyroid follicular cell tumors. The NOAEL was considered to be 40 ppm (2 mg/kg/day).

Clofentezine was not oncogenic to mice when administered for 2 years at dietary concentrations of 0, 50, 500, and 5,000 ppm. Decreased weight gain, increased liver weights, and increased mortality were noted at 5,000 ppm. An increased incidence of eosinophilic or basophilic hepatocytes was noted at 5,000 ppm, and possibly 500 ppm.

Numerous studies were conducted to investigate the mechanism for the increased incidence of male thyroid follicular tumors that was observed in the chronic rat study. These studies suggest that the tumors may have been caused by increased thyroid stimulating hormone (TSH) levels, which, in turn, resulted from clofentezine's liver toxicity, and were not attributable to a genotoxic mode of action.

6. *Animal metabolism*. The metabolism, tissue distribution and excretion of clofentezine have been evaluated in a number of species. In all species, almost all of the administered dose was recovered within 24 to 48 hours after treatment, primarily via the feces. The major route of metabolism was found to be ring hydroxylation, sometimes preceded by the replacement of a chlorine atom with a methyl-thio group. Blood and tissue levels in the fetuses of pregnant rats that had been treated with clofentezine were much lower than the levels found in the mother, indicating that clofentezine does not readily pass across the placenta. In addition, less than 1% of the administered dose was absorbed through the skin of rats following a 10-hour exposure to the end use formulation of clofentezine, APOLLO SC.

Following oral dosing of a cow and three goats with 14C-labeled clofentezine, the residue in milk was identified as a single metabolite, 4-hydroxyclofentezine. Similarly, 4-hydroxyclofentezine has been shown to be the only metabolite present in fat, liver, and kidney. No unchanged clofentezine or other metabolites were found. Therefore, the nature of the residue in animals is adequately understood. The residues of concern in ruminant commodities and milk are the combined residues of the parent, clofentezine, and the 4-hydroxyclofentezine metabolite.

7. *Metabolite toxicology*. There are no metabolites of toxicological concern and therefore, no metabolites need to be included in the tolerance expression and require regulation.

8. *Endocrine disruption*. Except for the thyroid mechanistic studies mentioned above, no special studies have been conducted to investigate the potential of clofentezine to induce estrogenic or other endocrine effects. However, the standard battery of required toxicity studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. Repeated dose studies are generally considered to be of substantial value as a means for detection of any endocrine effects. However, with the exception of a slightly increased incidence of thyroid tumors in male rats, no such effects were noted in any of the repeated dose toxicity studies with clofentezine. The male rat is known to be much more susceptible than humans to the carcinogenic effects resulting from thyroid hormone imbalance and/or increased levels of TSH. Therefore, the alterations in thyroid hormone and subsequent thyroid pathological

changes, which have been noted following administration of high doses of clofentezine, are considered to be of minimal relevance to human risk assessment, particularly considering the low levels of clofentezine to which humans are likely to be exposed.

C. Aggregate Exposure

1. *Dietary exposure*. Current tolerances (40 CFR 180.446) have been established for almonds (hulls, nutmeat), apples (fruit, pomace), apricots, cherries, nectarines, peaches, pears, walnuts, ruminant commodities, and milk. There is also a proposed tolerance for grapes pending (PP OF6119). A notice of filing for grapes was published in the **Federal Register** of July 12, 2000 (65 FR 43004; FRL–6591–8). In addition to the registered and pending uses, this notice of filing includes exposure assessments for potential residues of clofentezine in or on persimmon. Presently and in the future, clofentezine is not considered for residential uses. Thus, potential sources of non-occupational exposure to clofentezine would consist only of any potential residues in food and drinking water. No acute dietary assessments were conducted since no appropriate toxicological endpoint attributable to a single exposure was identified in the available toxicology studies. Therefore, only chronic exposure calculations were compared against the chronic RfD of 0.0125 mg/kg/day.

i. *Food*. A conservative dietary exposure assessment was performed for clofentezine using Exponent's Dietary Exposure Evaluation Model (DEEM) software, and consumption data derived from the 1994–1996 USDA Continuing Surveys of Food Intake by Individuals (CSFII). This assessment used all existing and proposed tolerances, residue levels at current and proposed tolerance levels, and percent crop treated (PCT) data based on the following assumptions: 24% apples, 0% apricots, 6% cherries, 30% nectarines, 12.2% peaches, 16% pears, 1.4% plums and prunes, 9.2% almonds, 7.4% walnuts, and 25% for grapes and 25% persimmon. The PCT data for current uses are in agreement with USEPA earlier assessment for clofentezine (April 19, 1999, 64 FR 19042; FRL–6075–6).

Based on these assumptions, the chronic dietary exposure estimates (DEEM) from the existing and proposed tolerances are well below the chronic RfD, ranging from 2.7% to 10.3% of the cRfD for the U.S. and its subpopulations.

ii. *Drinking water*. Sufficient ground or surface water monitoring data are not available to perform a quantitative risk assessment for clofentezine at this time. However, in the final rule published in the **Federal Register** on April 19, 1999 (see cite above), EPA previously determined estimated drinking water environmental concentrations (DWECs) for clofentezine in ground and surface water using available environmental fate data and the screening model for ground water (SCI-GROW) and the generic expected environmental concentration (GENEEC) model for surface water. The DWEC of clofentezine in groundwater was estimated to be 0.04 parts per billion (ppb) using SCI-GROW, and the chronic DWEC for surface water was estimated to be 0.3 ppb using GENEEC. EPA's policy allows the 90/56-day GENEEC value to be divided by 3 to obtain a value for chronic risk assessment calculations. Therefore, a surface water estimate of 0.1 ppb was used in the chronic risk assessment.

2. *Non-dietary exposure*. Not applicable.

3. *Chronic exposure (diet plus water)*. EPA uses the Drinking Water Level Of Comparison (DWLOC) as a theoretical upper limit on a pesticide's concentration in drinking water when considering total aggregate exposure to a pesticide in food, drinking water, and residential uses (not applicable for this assessment). DWLOCs are not regulatory standards for drinking water. However, EPA uses these values in the risk assessment process as a point of comparison against conservative model estimates of a pesticide's concentration in water. To calculate the DWLOC for chronic exposure relative to a chronic toxicity endpoint, the chronic dietary exposure analysis (DEEM) was subtracted from the RfD to obtain the acceptable chronic exposure to clofentezine in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption factors. If the DWLOC exceeds the DWEC value then there is reasonable certainty that no harm will result from the aggregate exposure.

The estimated average concentration of clofentezine in surface drinking water (0.1 ppb) is far below the range of calculated DWLOCs: 442 ppb (U.S. population), 233 ppb (children 1-6 years) and 117 ppb (All infants < 1 year, and Non-nursing infants). Therefore, Makhteshim-Agan believes there is reasonable certainty that no harm will result from aggregate exposure to residues arising from all current and proposed clofentezine uses.

D. Cumulative Effects

To our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by clofentezine would be cumulative with those of other chemical compounds; thus only the potential risks of clofentezine have been considered in this assessment of its aggregate exposure.

E. Safety Determination

1. *U.S. population*. The toxicity and residue databases for clofentezine are considered to be valid, reliable, and essentially complete. No acute dietary assessment was conducted because there is no toxicological endpoint attributable to a single exposure. Although clofentezine has been classified by EPA as category C for oncogenicity (April 3, 1990), quantitative oncogenic risk assessment was considered inappropriate given the weight of the evidence presently supported by the Agency's position that human health risk associated with long-term exposure to clofentezine is most appropriately evaluated by a chronic RfD value derived from the 1-year dog feeding study (NOAEL of 1.25 mg/kg/day), and using a 100-fold uncertainty factor. No effect on the thyroid, including the induction of thyroid follicular cell tumors would be expected at exposure levels that did not affect the liver. Furthermore, male rats are believed to be much more susceptible than humans to this type of effect. Therefore, the registrant concludes that quantification of carcinogenic risk based on thyroid follicular cell tumors in male rats is not appropriate.

Using worst-case assumptions of 100% percent crop treated, and that all crops and animal commodities contain residues of clofentezine at the current tolerance levels data maximum percent crop treated data, the aggregate exposure of the general population to clofentezine from the established and proposed tolerances utilizes about 8.7% of the chronic RfD or 2.7% if more realistic estimates of percent crop treated data have been used. The theoretical maximum residue contribution (TMRC) for the proposed use on persimmon is negligible. There is generally no concern for exposures, which utilize less than 100% of the RfD because the RfD represents the level at or below which daily aggregate exposure over a lifetime would not pose significant risks to human health. Therefore, Makhteshim-Agan concludes that there is a reasonable certainty that no harm will result to the general population from aggregate exposure to clofentezine residues.

2. *Infants and children*. The toxicology database for clofentezine regarding potential prenatal and

postnatal effects in children is complete according to existing Agency data requirements and does not indicate any developmental or reproductive concerns.

No indication of increased sensitivity to infants and children was noted in any of the studies with clofentezine. No developmental effects were noted in rats, even at a dose level (3,200 mg/kg/day) that exceeded the 1,000 mg/kg/day limit dose and produced maternal toxicity. In addition, no evidence of reproductive toxicity was noted in the rat multigeneration reproduction study. Slight developmental toxicity (decreased fetal weights) was noted in rabbits, but only at a dose level (3,000 mg/kg/day) that exceeded the EPA limit dose and also produced maternaltoxicity.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children to account for prenatal and postnatal toxicity and the completeness of the database. The toxicology database for clofentezine regarding potential prenatal and postnatal effects in children is complete according to existing Agency data requirements and does not indicate any developmental or reproductive concerns. Furthermore, the existing RfD is based on a NOAEL of 1.25 mg/kg/day (from the 1-year dog study), which is already more than 800-fold lower than the NOAEL in the rabbit developmental toxicity study. Thus, the registrant believes that the existing RfD of 0.0125 mg/kg/day is considered to be appropriate for assessing potential risks to infants and children and an additional uncertainty factor is not warranted.

Using the conservative exposure assumptions described above (proposed and current tolerances, 100% crop treated, and no adjustments for percent contribution from livestock diet), aggregate exposure to residues of clofentezine are expected to utilize about 48% of the RfD in non-nursing infants, 20% of the RfD in nursing infants, and 36% of the RfD in children aged 1 to 6 years old. Using more realistic estimates of percent crop treated, the percent of RfD utilized is less than or equal to 10% for these population subgroups. These numbers would be lowered further if anticipated residues and/or an adjustment for percent contribution from livestock diet were utilized rather than tolerance values. The residue contribution for the proposed use on persimmon is negligible. Therefore, Makhteshim-Agan concludes that there is reasonable certainty that no harm will result to infants or children from aggregate exposure to clofentezine residues.

F. International Tolerances

There are no international maximum residue levels (MRL) established for clofentezine in or on the raw agricultural commodity, persimmon.

[FR Doc. 04–19616 Filed 8–26–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

August 13, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 27, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Leslie.Smith@fcc.gov* or Kristy L. LaLonde, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–3087 or via the Internet at *Kristy_L._LaLonde@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copy of the information collection(s) contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1050.

Title: New Allocation for Amateur Radio Service, ET Docket No. 02–98.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and Individuals or household.

Number of Respondents: 5,000 respondents.

Estimated Time per Response: 20 minutes (0.3 hours).

Frequency of Response: Recordkeeping; On occasion and one-time reporting requirements; third party disclosure.

Total Annual Burden: 1,500 hours.

Total Annual Cost: None.

Privacy Impact Assessment: Yes.

Needs and Uses: On April 29, 2003, the Office of Engineering and Technology adopted a Report and Order, *Amendment of Parts 2 and 97 of the Commission's Rules to Create a Low Frequency Allocation for Amateur Radio Service,* ET Docket No. 02–98, FCC 03–105. An amateur operator holding a General, Advanced or Amateur Extra Class license may only operate on the channels 5332 kHz, 5348 kHz, 5368 kHz, 5373 kHz, and 5404 kHz. Under the following limitations: (1) A maximum effective radiated power (e.r.p.) of 50 W; and (2) single sideband suppressed carrier modulation (emission designator 2K8J3E), upper sideband voice transmissions only. For the purpose of computing e.r.p. the transmitter PEP will be multiplied with the antenna gain relative to a dipole or the equivalent calculation in decibels. Licensees using other antennas must maintain in their station records either manufacturer data on the antenna gain or calculations of the antenna gain.

The FCC has determined that the information collection requirements affect ''individuals or household'' and has included the appropriate responses to address the Privacy Impact Assessment requirements as required by OMB Memorandum M–03–22 (September 22, 2003).

OMB Control Number: 3060–0173.

Title: Section 73.1207, Rebroadcasts.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 5,562.

Estimated Hours per Response: 0.5 hours.

Frequency of Response: Recordkeeping; on occasion reporting requirement; third party disclosure.

Total Annual Burden: 5,056 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1207 requires licensees of broadcast stations to obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. This written consent assures the Commission that prior authorization for retransmission of a program was obtained. Section 73.1207 also requires stations that use the National Institutes of Standards and Technology (NIST) time signals to notify the NIST semiannually of use of time signals.

OMB Control Number: 3060–0179.

Title: Section 73.1590, Equipment Performance Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 13,049 respondents.

Estimated Time per Response: 0.5–18 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 12,335 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1590 requires licensees of AM, FM, TV and Class A stations, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less output power, to make equipment performance measurements for each main transmitter. These measurements and a description of the equipment and procedure used in making the measurements must be kept on file at the transmitter for two years and must be made available to the FCC upon request. FCC staff use the data in field investigations to identify sources of interference.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–19631 Filed 8–26–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 04–2333]

Telecommunications Relay Services and the Americans With Disabilities Act of 1990; Coin Sent-Paid TRS Call From Payphones

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission responds to an annual report required by the October 25, 2002 *Fifth Coin Sent-Paid Report & Order,* which adopted measures to ensure the availability of payphone services for telecommunication relay service (TRS) users that are functionally equivalent to traditional payphone services available for non-TRS users.

DATES: Effective July 28, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Cheryl King, (202) 418–2284 (voice), (202) 418–0416 (TTY), or e-mail *Cheryl.King@fcc.gov.*

SUPPLEMENTARY INFORMATION: On October 25, 2002, the Commission released a *Fifth Coin Sent-Paid Report & Order* published at 68 FR 6352, March 10, 2003, in CC Docket 90–571; FCC 02–269. In the *Fifth Coin Sent-Paid Report & Order,* the Commission required that the Coin Sent-Paid (CSP) Industry Team submit a report to the Commission twelve months after publication of the *Fifth Coin Sent-Paid Report & Order* in the **Federal Register**. The report was to address the implementation and effectiveness of the consumer education program, coordination with TRS user community, and the identification of any problem areas and corrective action taken. This is a summary of the Commission's *Public Notice,* DA 04–2333 released July 28, 2004.

The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: *http://www.bcpiweb.com* or call 1–800–378–3160.

To request this document in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This *Public Notice* can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb/dro.*

Synopsis

Title IV of the Americans with Disabilities Act, which is codified at section 225 of the Communications Act of 1934, as amended (the Act), mandates that the Federal Communications Commission (Commission) ensure that interstate and intrastate telecommunications relay services (TRS) are available, to the extent possible and in the most efficient manner, to individuals in the United States with hearing and speech disabilities. Title IV aims to further the Act's goal of universal service by providing to individuals with hearing or speech disabilities telephone services that are functionally equivalent to those available to individuals without such disabilities. Since TRS became available on a nationwide basis in 1993, the Commission has taken numerous steps to increase the availability of TRS, and to ensure that TRS users have access to the same services available to all telephone service users. One of these services is access to public payphones.

In the *Fifth Coin Sent-Paid Report & Order* the Commission noted that it had construed our requirement that TRS providers offer ''any type of call'' to include coin sent-paid calls, which are calls made by depositing coins in a coin-operated public payphone. At the same time, we noted long-standing concerns about the technical difficulties associated with providing long distance toll coin sent-paid calls through TRS facilities. We therefore addressed whether a solution had been developed for processing long distance toll coin sent-paid TRS calls, as well as whether other means had been developed by which individuals with hearing and speech disabilities could make TRS calls from payphones without using coins but instead using calling cards, prepaid cards, or collect or third-party billing.

In the October 2002 *Fifth Coin Sent-Paid Report & Order,* the Commission acknowledged that no current technological solution exists to allow TTY users to use public telephones and make long distance toll calls through TRS facilities in the same manner as voice users using public telephones, *i.e.*, by inserting coins to pay for the call. Instead, the Commission largely adopted the pay telephone industry's

Alternative Plan. Under the Alternative Plan, TRS users could make local 711 TRS calls from pay telephones free of charge, and may make long distance toll calls by using calling cards or prepaid telephone debit cards. The Alternative Plan also called for the pay telephone industry to develop programs to educate TRS users about alternate payment methods for making TRS long distance toll calls.

The Commission identified six specific outreach and educational steps that it encouraged the pay telephone industry to take:

(a) Draft a consumer education letter, in consultation with deaf and hard-of-hearing advocacy groups, for dissemination to TRS users.

(b) Attend local, regional, and national consumer conferences of organizations that represent people who are deaf and hard-of-hearing, and distribute information.

(c) Post TRS instructions on or near pay telephones, to the extent possible.

(d) Make information available for TRS websites.

(e) Provide coin sent-paid TRS information in telephone directories.

(f) Consult with representatives of the deaf and hard-of-hearing communities to improve outreach and education methods for use of payphones for TRS calls.

On March 9, 2004, the CSP Industry Team filed its required report on outreach activities, detailing its response to each of the Commission's recommendations. The CSP Industry Team reports that:

(a) *Consumer Information Letter.* The CSP Industry Team drafted an informational letter explaining the FCC's decision in the *Fifth Coin Sent-Paid Report & Order.* The CSP Industry Team received input on this letter from Telecommunications for the Deaf, Inc. (TDI) and Self Help for Hard of Hearing People (SHHH), and gave the informational letter to TDI and SHHH for circulation to their members. TDI and SHHH requested that the CSP Industry Team write an article on the same subject for a user group newsletter, with which request the CSP Industry Team complied. The CSP Industry Team also prepared a wallet-sized card containing information and instructions for users for distribution to the deaf and hard-of-hearing communities.

(b) *Information Booths at Conferences.* The CSP Industry Team, carriers, and TRS providers provided educational activities in various fora, including deaf/hard-of-hearing organizations, businesses, colleges/universities/schools, city and state governments, hospitals, independent living/senior facilities, health care facilities, and retirement groups, and at local, regional, and national conferences widely attended by the TRS community. The total number of such events in 2003 was nearly 750, and the CSP Industry Team estimates that it directly reached approximately 440,000 people.

(c) *TRS Instructions On or Near TTY Payphones.* The CSP Industry Team found that, in many instances, it was possible to have TRS instructions cards laminated and placed at the sites of TTY payphones.

(d) *TRS Web Site.* The CSP Industry Team developed website updates for its members' websites, explaining the CSP rules and procedures for accessing TRS through pay telephones.

(e) *TRS Information in Telephone Directories.* The CSP Industry Team coordinated with carriers to put TRS information, including CSP information, in telephone directories and telephone bill messages/inserts.

(f) *Consultation with the Disability Community.* In addition to meeting with national TRS users groups after the adoption of the *Fifth Coin Sent-Paid Report & Order,* identification of action items, and the provision of deliverables, the CSP Industry Team and TRS users groups agreed to reconvene to discuss any problems or developments in CSP. The Consumer Advisory Committee of the FCC, a Federal Advisory Committee, which includes members from the CSP Industry Team and members from TRS users groups, meets three times a year to discuss, *inter alia,* TRS issues. Any problems or developments which arise can be dealt with in this framework, or by reconvening the CSP Industry Team/TRS user group consultation process. The CSP Industry Team reported only one problem in its education and outreach program. TRS user groups were unhappy that the Commission had decided to let prepaid phone card rates be set by the market, without oversight by the Commission.

On November 25, 2002—before the CSP Industry Team filed its required outreach report—Telecommunications for the Deaf, Inc. (TDI), The Consumer Action Network, The National Association of the Deaf, and Self-Help for Hard of Hearing People (Joint CSP Petitioners) filed a joint petition for reconsideration of the *Fifth Coin Sent-Paid Report & Order,* raising two central issues. First, they requested that the Commission restore the interim requirement for TRS payphone calls that carriers charge the lower of the coin sent-paid rate, or the rate for calling cards and/or prepaid calling cards. Joint CSP Petitioners asserted that implementation issues should not preclude the requirement of cost parity. Second, the Joint CSP Petitioners asserted that the Commission should have implemented a national outreach program under the purview of an entity such as the TRS Fund Administrator, rather than leave outreach to the voluntary efforts of the carriers.

In an *Order* released on June 30, 2004, FCC 04–137, the Commission denied the Joint CSP Petitioners' Petition for Reconsideration of the *Fifth Coin Sent-Paid Report & Order.* First, the Commission declined to impose additional regulation on TRS calls made from payphones, including the notion of ''cost parity.'' Second, the Commission declined to mandate a nationwide uniform outreach campaign. With respect to outreach, the *Order* addressed more broadly TRS outreach and suggested that the Consumer Advisory Committee (CAC) develop voluntary Best Practice Guidelines for state TRS programs, TRS providers, and common carriers. The Commission committed that it would work with the CAC to ensure that the results of that effort, and other relevant materials, are available on the FCC website (*http://www.fcc.gov*) so that common carriers, TRS providers, state programs, and advocates will have the opportunity to share their outreach ideas and approaches. The Commission also directed the Consumer & Governmental Affairs Bureau to take concrete steps through educational and outreach efforts to further enhance public awareness of TRS. In addition to making factsheets and other informational materials available for dissemination through the Commission's website and national consumer call centers, the Commission committed to launch a comprehensive outreach campaign that will include participating in conferences and other events that provide opportunities for Commission staff to further educate not only users of TRS, but also the general public, about TRS. Finally, the Commission committed to provide media outlets likely to reach individuals who use TRS, as well as those of general distribution, with information about the availability of, and further developments in, the provision of TRS.

Because all outstanding coin sent-paid issues have now been resolved, the Commission will not request public comment on the CSP Industry Team's report. The Commission notes, however, that persons having concerns about coin sent-paid or other TRS issues may file informal complaints with the Commission, send letters to the Commission's Disability Rights Office, or file petitions for clarification or for the promulgation of new rules. The CSP

Industry Team's report is available through the Electronic Comment Filing System on the Commission's Web site, *http://gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi.*

Federal Communications Commission.

Jay Keithley,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 04–19626 Filed 8–26–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of June 29–30, 2004

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on June 29–30, 2004.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with increasing the federal funds rate to an average of around 1-1/4 percent.

By order of the Federal Open Market Committee, August 18, 2004.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. 04–19582 Filed 8–26–04; 8:45 am]

BILLING CODE 6210–01–S

[1] Copies of the Minutes of the Federal Open Market Committee meeting on June 29–30, 2004, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation for the Nomination of Candidates To Serve as Members of the National Vaccine Advisory Committee

AGENCY: Office of Public Health and Science, Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The National Vaccine Program Office (NVPO), a program office within the Office of Public Health and Science, DHHS, is soliciting nominations of qualified candidates to be considered for appointment as members to the National Vaccine Advisory Committee (NVAC). The activities of this Committee are governed by the stipulations of the Federal Advisory Committee Act (FACA). The current charter for the NVAC expires July 30, 2005.

Consistent with the National Vaccine Plan, the Committee advises and makes recommendations to the Assistant Secretary for Health in his/her capacity as the Director of the NVPO on matters related to the Program's responsibilities. Specifically, the Committee studies and recommends ways to encourage the availability of an adequate supply of safe and effective vaccination products in the United States; recommends research priorities and other measures to enhance the safety and efficacy of vaccines. The Committee also advises the Assistant Secretary for Health in the implementation of Sections 2102, 2103, and 2104 of the PHS Act; and identifies annually the most important areas of government and non-government cooperation that should be considered in implementing Sections 2102, 2103, and 2104 of the PHS Act.

DATES: Nominations for membership on the Committee must be received no later than 5 pm EST on October 31, 2004, at the address below.

All Nominations Should be Mailed or Delivered to: Bruce G. Gellin, M.D., M.P.H., Executive Secretary, National Vaccine Advisory Committee, Office of Public Health and Science, Department of Health and Human Services, 200 Independence Avenue, SW., Room 725–H Humphrey Building; Washington, DC 20201.

FOR FURTHER INFORMATION, CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, U.S. Department of Health and Human Services, Room 729.1–H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566.

A copy of the Committee charter and list of the current membership can be obtained by contacting Ms. English or by accessing the NVAC Web site at: *http://www.hhs.gov/nvpo/nvac.*

SUPPLEMENTARY INFORMATION: *Committee Function: Qualifications and Information Required:* Nominations are being sought for individuals who are engaged in vaccine research or the manufacture of vaccines, as well as individuals who are physicians, members of parent organizations concerned with immunizations representatives of State or local health agencies or public health organizations, and other public representatives. Individuals selected for appointment to the Committee will serve as voting members. Individuals selected for appointment to the Committee can be invited to serve terms with periods of up to four years.

Nominations should be typewritten. The following information should be included in the package of material submitted for each individual being nominated for consideration: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.*, specific attributes which qualify the nominee for service in this capacity), and a statement that the nominee is willing to serve as a member of the Committee; (2) the nominator's name, address and daytime telephone number, and the home and/or work address, telephone number, and email address of the individual being nominated; and (3) a current copy of the nominee's curriculum vitae. Applications cannot be submitted by facsimile. The names of Federal employees should not be nominated for consideration of appointment to this Committee.

The Department makes every effort to ensure that the membership of DHHS Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made that a broad representation of geographic areas, gender, ethnic and minority groups, and the disabled are given consideration for membership on DHHS Federal advisory committees. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

Dated: August 24, 2004.

Sarah Landry,

Associate Director for Communication and Legislation, National Vaccine Program Office.

[FR Doc. 04–19600 Filed 8–26–04; 8:45 am]

BILLING CODE 4150–28–P

Authority: 42 U.S.C. 217a, section 222 of the Public Health Service (PHS) Act, as amended. The Committee is governed by the provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2),

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on October 5, 2004, from 9 a.m. to 3:30 p.m., and on October 6, 2004, from 9 a.m. to 3:30 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION, CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 725H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvac@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program (NVP) to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The Secretary designated the Assistant Secretary for Health to serve as the Director, NVPO. The National Vaccine Advisory Committee (NVAC) was established to provide advice and make recommendations to the Director, NVPO, on matters related to the program's responsibilities.

Topics to be discussed at the meeting include: Pandemic Influenza and the Pandemic Influenza Response and Preparedness Plan and the NVAC Influenza Working Group's assessment of domestic influenza issues/needs. Updates will be given on the NVAC Working Group on Public Participation, the NVAC Working Group on Vaccine Financing, the NVAC Vaccine Safety and Communications Subcommittee, the NVAC Futures Vaccines Subcommittee, and the NVAC Immunization Coverage Subcommittee. A tentative agenda will be made available on or about September 21 for review on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac.*

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business September 29, 2004. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvac@osophs.dhhs.gov*

Dated: August 24, 2004.

Sarah Landry,

Associate Director for Communication and Legislation, National Vaccine Program Office.

[FR Doc. 04–19601 Filed 8–26–04; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF AGRICULTURE

Announcement of the Availability of the Final Report of the Dietary Guidelines Advisory Committee, a Public Comment Period, and a Public Meeting

AGENCIES: Office of Public Health and Science, HHS; and Food, Nutrition and Consumer Services and Research, Education and Economics, USDA.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) and the Department of Agriculture (USDA) (a) announce the availability of the final Report of the Dietary Guidelines Advisory Committee on the Dietary Guidelines for Americans, 2005 (Report); (b) solicit written comments on the Report; and (c) provide notice of a public meeting to solicit oral comments on the Report. The meeting will be held at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Small Auditorium, Washington, DC, 20201. Registration is required to provide oral comments at the meeting and to attend the meeting.

DATES: (a) The final report of the Dietary Guidelines Advisory Committee (the Committee) will be available for comments on August 27, 2004. (b) Written comments on the Committee's report can be submitted and must be received by the Agencies on or before 5 p.m. E.D.T., September 27, 2004. (c) The public meeting to solicit oral comments on the report will be held on September 21, 2004 , starting at 9 a.m. E.D.T. Requests to present oral testimony must be received by 5 p.m. E.D.T., September 14, 2004.

ADDRESSES: (a) The final Report of the Committee is available electronically at *http://www.health.gov/dietaryguidelines* or in hard copy for viewing at Suite LL100, 1101 Wootton Parkway, Rockville, Maryland 20852. (b) Written comments may be submitted at *http://www.health.gov/dietaryguidelines* or mailed to Kathryn McMurry, HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, 1101 Wootton Parkway, Suite LL100, Rockville, Maryland 20852, (phone 240–453–8280). (c) The public meeting will be held at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Small Auditorium, Washington, DC, 20201.

FOR FURTHER INFORMATION CONTACT: HHS Co-Executive Secretary: Kathryn McMurry (phone 240–453–8272), HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852. USDA Co-Executive Secretaries: Carole Davis (phone 703–305–7600), USDA Center for Nutrition Policy and Promotion, 3101 Park Center Drive, Room 1034, Alexandria, Virginia 22302, or Pamela Pehrsson (phone 301–504–0716), USDA Agricultural Research Service, Beltsville Agricultural Research Center-West, Building 005, Room 309A, Beltsville, Maryland 20705. Additional information is available on the Internet at *http://www.health.gov/dietaryguidelines.*

SUPPLEMENTARY INFORMATION:

I. Dietary Guidelines Advisory Committee Report

The thirteen-member Dietary Guidelines Advisory Committee was appointed by the Departments of Health and Human Services and Agriculture in August, 2003 to assist the Departments in providing sound and current dietary guidance to consumers. The National Nutrition Monitoring and Related Research Act of 1990, Public Law 101–445, Title III, 7 U.S.C. 5301 et seq., requires the Secretaries of HHS and USDA to publish the Dietary Guidelines for Americans at least every five years. During its first meeting on September

23–24, 2003, the Committee decided that the science has changed since the 2000 edition of Nutrition and Your Health: Dietary Guidelines for Americans and further evaluation of the science was necessary. The Committee has finalized its recommendations and submitted its Report to the Secretaries of the Departments of Health and Human Services and Agriculture. This Report will serve as the basis for the sixth edition of Nutrition and Your Health: Dietary Guidelines for Americans, which HHS and USDA expect to publish in January, 2005.

The final report of the Dietary Guidelines Advisory Committee is available electronically at *http://www.health.gov/dietaryguidelines* or in hard copy for viewing (refer to the **ADDRESSES** section, above).

II. Written Comment

By this notice, HHS and USDA are soliciting submission of written comments on the Committee's final Report, as well as views, information and data pertinent to preparation of Nutrition and Your Health: Dietary Guidelines for Americans. Comments must be received by 5 p.m. e.d.t. on September 27, 2004 to assure consideration. Comments may be submitted at *http://www.health.gov/dietaryguidelines* or mailed to Kathryn McMurry, HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852, (phone 240–453–8280). For those submitting written comments more than 5 pages in length, please provide a 1-page summary of key points related to the comments submitted. E-mailed comments will not be accepted.

III. Announcement of Meeting

A public meeting to solicit oral comments on the Report will take place on September 21, 2004, starting at 9 a.m. e.d.t. The meeting will be held at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Small Auditorium, Washington, DC, 20201. The building is located 2 blocks from the Federal Center, SW. stop on the blue and orange metro lines. The agenda will include oral testimony from registered individuals or groups.

Public Participation at Meeting: The meeting is open to the public. Space is limited. Due to the need for security screening, registration is required for all attendees. To register, please e-mail *dietaryguidelines@osophs.dhhs.gov*, with ''Meeting Registration'' in the subject line or call Sandra Saunders at (240) 453–8272 by 5 p.m. e.d.t., Friday, September 14, 2004. Registration must include your name, affiliation, and phone number. Visitors must bring proper identification to attend the meeting. If you require a sign language interpreter, please call Sandra Saunders at (240) 453–8272 by September 14, 2004.

Oral Testimony: By this notice, the Departments are inviting submission of applications for oral testimony at the public meeting. Due to time limitations, registration is required and will be limited to one presenter per organization. Registration to present oral testimony will be confirmed on a first-come, first-served basis, as time on the meeting agenda permits. Name of the presenter, organization affiliation (if applicable), source of funding, and contact phone number are required for registration. Requests to testify must include a written outline of the intended testimony not exceeding one page in length. Requests can be submitted electronically with ''Oral Testimony Registration'' in the subject line, to *dietaryguidelines@osophs.dhhs.gov*. All requests to present oral testimony must be received by 5 p.m. e.d.t., September 14, 2004. Presenters are required to disclose their affiliation and their source of funding to give oral testimony at the meeting and must limit their comments to three minutes. Please call Sandra Saunders at (240) 453–8272 if you have questions regarding registration.

Dated: August 23, 2004.

Penelope S. Royall,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion), Department of Health and Human Services.

Dated: August 23, 2004.

Eric J. Hentges,

Executive Director, Center for Nutrition Policy and Promotion, Department of Agriculture.

[FR Doc. 04–19563 Filed 8–26–04; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Draft Pandemic Influenza Preparedness and Response Plan

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The National Vaccine Program Office (NVPO), Department of Health and Human Services, has drafted a plan to guide national preparedness and response to an influenza pandemic. The draft Pandemic Influenza Preparedness and Response Plan articulates a coordinated strategy to prepare and respond to an influenza pandemic and provides guidance to national, state, and local policy makers and health departments for public health preparation and response in the event of pandemic influenza outbreak. The draft plan includes a core section and twelve annexes. The core plan describes coordination and decision-making activities at the National level; provides an overview of key issues; and outlines action steps that should be taken at National, state, and local levels before and during a pandemic. Annexes provide additional information for health departments and private sector organizations, which can be used in developing local preparedness plans as well as additional technical information to support the core document.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 26, 2004.

ADDRESSES: Attn: Pandemic Plan, National Vaccine Program Office, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, DC 20201 or by email at *pandemicinfluenza@osophs.dhhs.gov.*

FOR FURTHER INFORMATION CONTACT: Persons with access to the Internet may obtain the document at *http://www.dhhs.gov/nvpo/pandemicplan.* Submit requests for single copies of the draft pandemic plan to the address identified below.

Attn: Pandemic Plan, National Vaccine Program Office, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, DC 20201 or by email at *pandemicinfluenza@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

An influenza pandemic represents a major threat to health and may cause substantial social and economic disruption. Planning and implementing preparedness activities are critical to improving the effectiveness of a response and decreasing the impacts of a pandemic. The draft Pandemic Influenza Preparedness and Response Plan was developed to define national preparedness and response activities, and to guide planning activities that are underway at the State and local levels in both the public and private sectors. The plan is designed to be consistent with other health emergency preparedness and response plans while also recognizing the unique issues that an influenza pandemic would present.

II. Input Sought

There are several issues in the draft plan where options are being considered by the Department of Health and Human Services and final decisions are pending. Public comment on all aspects of the plan is being sought.

Dated: August 17, 2004.

Arthur J. Lawrence,

Acting Principal Deputy Assistant Secretary for Health, Office of Public Health and Science.

[FR Doc. 04–19285 Filed 8–26–04; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1269–N2]

Medicare Program; Second Request for Nominations for Two Specific Categories of Members of the Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice solicits nominations for members in two categories, patient representatives and State survey agency representatives, for which no nominations were received in response to our May 28, 2004 **Federal Register** notice. It also describes the establishment of the Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG).

DATES: Nominations for membership will be considered if they are received by September 27, 2004.

ADDRESSES: Send nominations via mail or courier delivery to—Division of Acute Care, Mail stop C4–08–06, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Attention: Beverly J. Parker, or Via email to *EMTALATAG@cms.hhs.gov*. To allow for verification, all emailed items, including letters of nomination and letters of support, must include the submitter's contact information.

Send written requests for copies of the EMTALA TAG Charter to—Division of Acute Care, Mail stop C4–08–06, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Attention: Marianne M. Myers

FOR FURTHER INFORMATION CONTACT: Beverly J. Parker (410) 786–5320.

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1866(a)(1)(I), 1866(a)(1)(N), and 1867 of the Social Security Act (the Act) impose specific obligations on Medicare-participating hospitals that offer emergency services. These obligations concern individuals who come to a hospital emergency department and request examination or treatment for medical conditions, and apply to all of these individuals, regardless of whether or not they are beneficiaries of any program under the Act. These provisions, taken together, are frequently referred to as the Emergency Medical Treatment and Labor Act (EMTALA), also known as the patient antidumping statute.

EMTALA was passed in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Congress enacted these antidumping provisions in the Social Security Act because of its concern with an ''increasing number of reports'' that hospital emergency rooms were refusing to accept or treat individuals with emergency conditions if the individuals did not have insurance.

Regulations implementing the EMTALA legislation are set forth in 42 CFR 489.20(l), (m), (q) and (r)(1), (r)(2), (r)(3), and 489.24. These regulations incorporate changes made by a final rule published in the September 9, 2003 **Federal Register** (68 FR 53222). We published that final rule to clarify policies relating to the responsibilities of Medicare-participating hospitals in treating individuals with emergency medical conditions who present to a hospital under the provisions of EMTALA.

Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173), requires that the Secretary establish a Technical Advisory Group (TAG) for advice concerning issues related to EMTALA regulations and implementation. In the May 28, 2004 **Federal Register** (69 FR 30654), we specified the statutory requirements regarding the charter, general responsibilities, and composition of the EMTALA TAG. That notice also solicited nominations for members based on the statutory requirements for the EMTALA TAG.

II. Charter, General Responsibilities, and Composition of the EMTALA TAG

A. Charter Information and General Responsibilities

As explained in the May 28, 2004 notice, the Secretary signed the charter establishing the EMTALA TAG on May 11, 2004. This charter will terminate 30 months from the date of the EMTALA TAG's first meeting. The EMTALA TAG, as chartered, under the legal authority of section 945 of the MMA, is also governed by the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2. In accordance with section 945 of the MMA, the EMTALA TAG will meet at least twice a year and all meetings will be open to the public.

You may obtain a copy of the Secretary's charter for the EMTALA TAG by mailing a written request to the address specified in the **ADDRESSES** section of this notice.

Section 945 of the MMA specifies that the EMTALA TAG—

- Shall review the EMTALA regulations;
- May provide advice and recommendations to the Secretary concerning these regulations and their application to hospitals and physicians;
- Shall solicit comments and recommendations from hospitals, physicians, and the public regarding implementation of such regulations; and
- May disseminate information concerning the application of these regulations to hospitals, physicians, and the public.

B. Composition of the EMTALA TAG

The May 28, 2004 notice stated that section 945 of the MMA specifies the composition of the EMTALA TAG. It states that the EMTALA TAG will be composed of 19 members including the Administrator of the Centers for Medicare & Medicaid Services (CMS) and the Inspector General of the Department of Health and Human Services (DHHS) in addition to the number and type of individuals specified in each of the following categories:

- Four representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and, at least, two hospitals that have not been cited for EMTALA violations;
- Seven practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology and psychiatry,

with not more than one physician from any particular field;

- Two representatives of patients;
- Two staff persons involved in EMTALA investigations from different CMS regional offices;
- One representative from a State survey agency involved in EMTALA investigations and one representative from a Quality Improvement Organization (QIO), both of whom shall be from areas other than the regions represented by the CMS regional offices.

III. Response to May 28, 2004 Notice and Second Request for Nominations for Patient Representatives and State Survey Agency Representative

In response to our May 28, 2004 notice, we received nominations of individuals for the categories of hospital representatives, practicing physician representatives, staff persons involved in EMTALA investigations from CMS Regional Offices, and a QIO representative. Therefore, we are not seeking, and will not consider, any further nominations in any of these categories.

However, we did not receive any timely and complete nominations of individuals for two categories—(1) Patient representatives and (2) representative of a State survey agency involved in EMTALA investigations. Therefore, we are requesting nominations for membership on the EMTALA TAG in these categories. With respect to the category of patient representatives, the Secretary will consider qualified individuals who are nominated by organizations representing providers and patients. With respect to the category of State survey agency staff involved in EMTALA investigations, any interested person may nominate one or more qualified individuals (self-nominations will also be accepted). The Secretary will appoint members to serve on the EMTALA TAG from among those candidates determined to have the technical expertise required to meet specific agency needs and in a manner to ensure an appropriate balance of membership.

Each nomination must include the following:

1. A letter of nomination that contains—

a. Contact information for both the nominator and nominee (if not the same); and

b. The category, for which the nomination is being made (that is, either patient representative or representative of a State survey agency involved in EMTALA investigations).

2. A statement from the nominee that he or she is willing to serve on the EMTALA TAG for its duration (that is, at least 30 months from date of the first meeting) and an explanation of interest in serving on the EMTALA TAG. (For self-nominations, this information may be included in the nomination letter.)

3. A curriculum vitae that indicates the nominee's educational and EMTALA-related experiences.

4. Three letters of reference that support the nominee's qualifications for participation on the EMTALA TAG. (For nominations other than self-nominations, a nomination letter that includes information supporting the nominee's qualifications may be counted as one of the letters of reference.)

5. Additional information is required for representatives from a State survey agency—in your statement regarding serving on the EMTALA TAG indicate the extent of your experience with EMTALA investigations.

To ensure that a nomination is considered, we must receive all of the nomination information specified in section III of this notice by September 27, 2004.

Authority: Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 24, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 04–19739 Filed 8–26–04; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2201–N]

RIN 0938–ZA17

State Children's Health Insurance Program; Final Allotments to States, the District of Columbia, and U.S. Territories and Commonwealths for Fiscal Year 2005

AGENCY: Centers for Medicare & Medicaid Services (CMS),HHS.

ACTION: Notice.

SUMMARY: Title XXI of the Social Security Act (the Act) authorizes payment of Federal matching funds to States, the District of Columbia, and U.S. Territories and Commonwealths to initiate and expand health insurance coverage to uninsured, low-income children under the State Children's Health Insurance Program (SCHIP). This notice sets forth the final allotments of Federal funding available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year 2005.

States may implement SCHIP through a separate State program under title XXI of the Act, an expansion of a State Medicaid program under title XIX of the Act, or a combination of both.

DATES: This notice is effective on September 27, 2004. Final allotments are available for expenditures after October 1, 2004.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 786–2019.

SUPPLEMENTARY INFORMATION:

I. Purpose of This Notice

This notice sets forth the allotments available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year (FY) 2005 under title XXI of the Social Security Act (the Act). Final allotments for a fiscal year are available to match expenditures under an approved State child health plan for 3 fiscal years, including the year for which the final allotment was provided. The FY 2005 allotments will be available to States for FY 2005, and unexpended amounts may be carried over to 2006 and 2007. Federal funds appropriated for title XXI are limited, and the law specifies a formula to divide the total annual appropriation into individual allotments available for each State, the District of Columbia, and each U.S. Territory and Commonwealth with an approved child health plan.

Section 2104(b) of the Act requires States, the District of Columbia, and U.S. Territories and Commonwealths to have an approved child health plan for the fiscal year in order for the Secretary to provide an allotment for that fiscal year. All States, the District of Columbia, and U.S. Territories and Commonwealths have approved plans for FY 2005. Therefore, the FY 2005 allotments contained in this notice pertain to all States, the District of Columbia, and U.S. Territories and Commonwealths.

II. Methodology for Determining Final Allotments for States, the District of Columbia, and U.S. Territories and Commonwealths

This notice specifies, in the Table under section III, the final FY 2005

allotments available to individual States, the District of Columbia, and U.S. Territories and Commonwealths for either child health assistance expenditures under approved State child health plans or for claiming an enhanced Federal medical assistance percentage rate for certain SCHIP-related Medicaid expenditures. As discussed below, the FY 2005 final allotments have been calculated to reflect the methodology for determining an allotment amount for each State, the District of Columbia, and each U.S. Territory and Commonwealth as prescribed by section 2104(b) of the Act.

Section 2104(a) of the Act provides that, for purposes of providing allotments to the 50 States and the District of Columbia, the following amounts are appropriated: $4,295,000,000 for FY 1998; $4,275,000,000 for each FY 1999 through FY 2001; $3,150,000,000 for each FY 2002 throughFY 2004; $4,050,000,000 for each FY 2005 through FY 2006; and $5,000,000,000 for FY 2007. However, under section 2104(c) of the Act, 0.25 percent of the total amount appropriated each year is available for allotment to the U.S. Territories and Commonwealths of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands. The total amounts are allotted to the U.S. Territories and Commonwealths according to the following percentages: Puerto Rico, 91.6 percent; Guam, 3.5 percent; the Virgin Islands, 2.6 percent; American Samoa, 1.2 percent; and the Northern Mariana Islands, 1.1 percent.

Section 2104(c)(4)(B) of the Act provides for additional amounts for allotment to the Territories and Commonwealths: $34,200,000 for each FY 2000 through FY 2001; $25,200,000 for each FY 2002 through FY 2004; $32,400,000 for each FY 2005 through FY 2006; and $40,000,000 for FY 2007. Since, for FY 2005, title XXI of the Act provides an additional $32,400,000 for allotment to the U.S. Territories and Commonwealths, the total amount available for allotment to the U.S. Territories and Commonwealths in FY 2005 is $42,525,000; that is, $32,400,000 plus $10,125,000 (0.25 percent of the FY 2005 appropriation of $4,050,000,000).

Therefore, the total amount available nationally for allotment for the 50 States and the District of Columbia for FY 2005 was determined in accordance with the following formula:

$A_T = S_{2104(a)} - T_{2104(c)}$

A_T = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

$S_{2104(a)}$ = Total appropriation for the fiscal year indicated in section 2104(a) of the Act. For FY 2005, this is $4,050,000,000.

$T_{2104(c)}$ = Total amount available for allotment for the U.S. Territories and Commonwealths; determined under section 2104(c) of the Act as 0.25 percent of the total appropriation for the 50 States and the District of Columbia. For FY 2005, this is: $.0025 \times \$4,050,000,000 = \$10,125,000$.

Therefore, for FY 2005, the total amount available for allotment to the 50 States and the District of Columbia is $4,039,875,000. This was determined as follows:

A_T ($4,039,875,000) = $S_{2104(a)}$ ($4,050,000,000) − $T_{2104(c)}$ ($10,125,000)

For purposes of the following discussion, the term ''State,'' as defined in section 2104(b)(1)(D)(ii) of the Act, ''means one of the 50 States or the District of Columbia.''

Under section 2104(b) of the Act, the States' SCHIP allotments for a particular fiscal year are determined based on two factors: The ''number of children'' and the ''State cost factor.'' The number of children is based on the three most recent March supplements to the Current Population Survey (CPS) of the Bureau of the Census officially available before the beginning of the calendar year in which the fiscal year begins. The State cost factor is based on the annual average wages per employee in the health services industry, which is determined using the most recent 3 years of such wage data as reported and determined as final by the Bureau of Labor Statistics (BLS) of the Department of Labor to be officially available before the beginning of the calendar year in which the fiscal year begins. Since FY 2005 begins on October 1, 2004 (that is, in calendar year 2004), in determining the FY 2005 SCHIP allotments, we are using the most recent official data from the Bureau of the Census and the BLS, respectively, available before January 1 of calendar year 2004 (that is, through the end of December 31, 2003).

Number of Children

For FY 2005, as specified by section 2104(b)(2)(A)(iii) of the Act, the number of children is calculated as the sum of 50 percent of the number of low-income, uninsured children in the State, and 50 percent of the number of low-income children in the State. The number of children factor for each State is developed from data provided by the Bureau of the Census based on the standard methodology used to determine official poverty status and uninsured status in the annual CPS on these topics. As part of a continuing formal process between the Centers for Medicare & Medicaid Services (CMS) and the Bureau of the Census, each fiscal year we obtain the number of children data officially from the Bureau of the Census.

Under section 2104(b)(2)(B) of the Act, the number of children for each State (provided in thousands) was determined and provided by the Bureau of the Census based on the arithmetic average of the number of low-income children and low-income children with no health insurance as calculated from the three most recent March supplements to the CPS officially available from the Bureau of the Census before the beginning of the 2004 calendar year. In particular, through December 31, 2003, the most recent official data available from the Bureau of the Census on the numbers of children were data from the three March CPSs conducted in March 2001, 2002, and 2003 (representing data for years 2000, 2001, and 2002, respectively).

State Cost Factor

The State cost factor is based on annual average wages in the health services industry in the State. The State cost factor for a State is equal to the sum of: 0.15 and 0.85 multiplied by the ratio of the annual average wages in the health industry per employee for the State to the annual wages per employee in the health industry for the 50 States and the District of Columbia.

Under section 2104(b)(3)(B) of the Act, the State cost factor for each State for a fiscal year is calculated based on the average of the annual wages for employees in the health industry for each State using data for each of the most recent three years as reported and determined as final by the BLS in the Department of Labor and available before the beginning of the calendar year in which the fiscal year begins. Therefore, the State cost factor for FY 2005 is based on the most recent 3 years of BLS data officially available as final before January 1, 2004 (the beginning of the calendar year in which FY 2005 begins); that is, the State cost factor is based on the BLS data available as final through December 31, 2003. In accordance with these requirements, we used the final State cost factor data available from BLS for 2000, 2001, and 2002 in calculating the FY 2005 final allotments.

The State cost factor is determined based on the calculation of the ratio of each State's average annual wages in the health industry to the national average

annual wages in the health care industry. Since BLS is required to suppress certain State-specific data in providing us with the State-specific average wages per health services industry employee due to the Privacy Act, we calculated the national average wages directly from the State-specific data provided by BLS. As part of a continuing formal process between CMS and the BLS, each fiscal year, CMS obtains these wage data officially from the BLS.

Section 2104(b)(3)(B) of the Act, as amended by the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, refers to wage data as reported by BLS under the ''Standard Industrial Classification'' (SIC) system. However, in calendar year 2002, BLS phased-out the SIC wage and employment reporting system and replaced it with the ''North American Industry Classification System'' (NAICS). In accordance with section 2104(b)(3)(B) of the Act, for purposes of calculating the FY 2005 allotments, BLS would need to provide wage data for the 3 most recent years as available through December 31, 2003; in this case, the three years of wage data are 2000, 2001, and 2002. However, because of the change from the SIC system to NAICS, wage data for 2001 and 2002 are not available under the SIC reporting system. Wage data for 2000 under the SIC reporting system is available from BLS. Therefore, the BLS wage data used in calculating the FY 2005 SCHIP allotments necessarily reflect 1 year of SIC system data (2000) and 2 years of NAICS data (2001 and 2002) to obtain the 3-year average required for the allotments.

Under the SIC system, BLS provided CMS with wage data for each State under the SIC Code 80 for year 2000. However, the wage data codes under the SIC system do not map exactly to the wage data codes under the NAICS. As a result, for the years 2001 and 2002, BLS provided us with wage data using three NAICS wage data codes that represent approximately 98 percent of the wage data that would have been provided under the related SIC Code 80. Specifically, in lieu of SIC Code 80 data, for the years 2001 and 2002, BLS provided CMS data that are based on the following three NAICS codes: NAICS Code 621 (Ambulatory health care services), Code 622 (Hospitals), and Code 623 (Nursing and residential care facilities).

Under section 2104(b)(4) of the Act, each State and the District of Columbia is allotted a ''proportion'' of the total amount available nationally for allotment to the States. The term ''proportion'' is defined in section 2104(b)(4)(D)(i) of the Act and refers to a State's share of the total amount available for allotment for any given fiscal year. In order for the entire total amount available to be allotted to the States, the sum of the proportions for all States must exactly equal one. Under the statutory definition, a State's proportion for a fiscal year is equal to the State's allotment for the fiscal year divided by the total amount available nationally for allotment for the fiscal year. In general, a State's allotment for a fiscal year is calculated by multiplying the State's proportion for the fiscal year by the national total amount available for allotment for that fiscal year in accordance with the following formula:

$SA_i = P_i \times A_T$

SA_i = Allotment for a State or District of Columbia for a fiscal year.

P_i = Proportion for a State or District of Columbia for a fiscal year.

A_T = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year. For FY 2005, this is $4,039,875,000.

In accordance with the statutory formula for determining allotments, the State proportions are determined under two steps, which are described in detail below.

Determination of Preadjusted Proportion

Under the first step, each State's proportion is calculated by multiplying the State's Number of Children and the State Cost Factor to determine a ''product'' for each State. The products for all States are then summed. Finally, the product for a State is divided by the sum of the products for all States, thereby yielding the State's preadjusted proportion.

Application of Floors and Ceilings

Under the second step, the preadjusted proportions are subject to the application of proportion floors, ceilings, and a reconciliation process, as appropriate. The SCHIP statute specifies three proportion floors, or minimum proportions, that apply in determining States' allotments. The first proportion floor is equal to $2,000,000 divided by the total of the amount available nationally for the fiscal year. This proportion ensures that a State's minimum allotment would be $2,000,000. For FY 2005, no State's preadjusted proportion is below this floor. The second proportion floor is equal to 90 percent of the allotment proportion for the State for the previous fiscal year; that is, a State's proportion for a fiscal year must not be lower than 10 percent below the previous fiscal year's proportion. The third proportion floor is equal to 70 percent of the allotment proportion for the State for FY 1999; that is, the proportion for a fiscal year must not be lower than 30 percent below the FY 1999 proportion.

Each State's allotment proportion for a fiscal year is also limited by a maximum ceiling amount, equal to 145 percent of the State's proportion for FY 1999, that is, a State's proportion for a fiscal year must be no higher than 45 percent above the State's proportion for FY 1999. The floors and ceilings are intended to minimize the fluctuation of State allotments from year to year and over the life of the program as compared to FY 1999. The floors and ceilings on proportions are not applicable in determining the allotments of the U.S. Territories and Commonwealths; they receive a fixed percentage specified in the statute of the total allotment available to the U.S. Territories and Commonwealths.

As determined under the first step for determining the States' preadjusted proportions, which is applied before the application of any floors or ceilings, the sum of the proportions for all the States and the District of Columbia will be equal to exactly one. However, the application of the floors and ceilings under the second step may change the proportions for certain States; that is, some States' proportions may need to be raised to the floors, while other States' proportions may need to be lowered to the maximum ceiling. If this occurs, the sum of the proportions for all States and the District of Columbia may not exactly equal one. In that case, the statute requires the proportions to be adjusted, under a method that is determined by whether the sum of the proportions is greater or less than one.

The sum of the proportions would be greater than one if the application of the floors and ceilings resulted in raising the proportions of some States (due to the application of the floors) to a greater degree than the proportions of other States were lowered (due to the application of the ceiling). If, after application of the floors and ceiling, the sum of the proportions is greater than one, the statute requires the Secretary to determine a maximum percentage increase limit, which, when applied to the State proportions, would result in the sum of the proportions being exactly one.

If, after the application of the floors and ceiling, the sum of the proportions is less than one, the statute requires the States' proportions to be increased in a ''pro rata'' manner so that the sum of the

proportions again equals one. Finally, it is also possible, although unlikely, that the sum of the proportions (after the application of the floors and ceiling) will be exactly one; in that case, the proportions would require no further adjustment.

Determination of Preadjusted Proportions

The following is an explanation of how we applied the two State-related factors specified in the statute to determine the States' ''preadjusted'' proportions for FY 2005. The term ''preadjusted,'' as used here, refers to the States' proportions before the application of the floors and ceiling and adjustments, as specified in the SCHIP statute. The determination of each State and the District of Columbia's preadjusted proportion for FY 2005 is in accordance with the following formula:

$PP_i = (C_i \times SCF_i)/\Sigma(C_i \times SCF_i)$

PP_i = Preadjusted proportion for a State or District of Columbia for a fiscal year.

C_i = *Number of children* in a State (section 2104(b)(1)(A)(i) of the Act) for a fiscal year. This number is based on the number of low-income children for a State for a fiscal year and the number of low-income uninsured children for a State for a fiscal year determined on the basis of the arithmetic average of the number of such children as reported and defined in the three most recent March supplements to the CPS of the Bureau of the Census, officially available before the beginning of the calendar year in which the fiscal year begins. (*See* section 2104(b)(2)(B) of the Act.)

For fiscal year 2005, the number of children is equal to the sum of 50 percent of the number of low-income uninsured children in the State for the fiscal year and 50 percent of the number of low-income children in the State for the fiscal year. (*See* section 2104(b)(2)(A)(iii) of the Act.)

SCF_i = *State Cost Factor* for a State (section 2104(b)(1)(A)(ii) of the Act). For a fiscal year, this is equal to: $0.15 + 0.85 \times (W_i/W_N)$

W_i = The annual average wages per employee for a State for such year (section 2104(b)(3)(A)(ii)(I) of the Act).

W_N = The annual average wages per employee for the 50 States and the District of Columbia (section 2104(b)(3)(A)(ii)(II) of the Act).

The annual average wages per employee for a State or for all States and the District of Columbia for a fiscal year is equal to the average of such wages for employees in the health services industry, as reported and determined as final by the BLS of the Department of Labor for each of the most recent 3 years officially available before the beginning of the calendar year in which the fiscal year begins. (*See* section 2104(b)(3)(B) of the Act).

$\Sigma(C_i \times SCF_i)$ = The sum of the products of $(C_i \times SCF_i)$ for each State (section 2104(b)(1)(B) of the Act).

The resulting proportions would then be subject to the application of the floors and ceilings specified in the SCHIP statute and reconciled, as necessary, to eliminate any deficit or surplus of the allotments because the sum of the proportions was either greater than or less than one.

Section 2104(e) of the Act requires that the amounts allotted to a State for a fiscal year be available to the State for a total of 3 years; the fiscal year for which the amounts are allotted, and the 2 following fiscal years.

III. Table of State Children's Health Insurance Program Final Allotments for FY 2005

Key to Table

Column/Description

Column A = *State.* Name of State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *Number of Children.* The number of children for each State (provided in thousands) was determined and provided by the Bureau of the Census based on the arithmetic average of the number of low-income children and low-income uninsured children, and is based on the three most recent March supplements to the CPS of the Bureau of the Census officially available before the beginning of the calendar year in which the fiscal year begins. The FY 2005 allotments were based on the 2001, 2002, and 2003 March supplements to the CPS. These data represent the number of people in each State under 19 years of age whose family income is at or below 200 percent of the poverty threshold appropriate for that family, and who are reported to be without health insurance coverage. The number of children for each State was developed by the Bureau of the Census based on the standard methodology used to determine official poverty status and uninsured status in its annual March CPS on these topics.

For FY 2005, the number of children is equal to the sum of 50 percent of the number of low-income uninsured children in the State and 50 percent of the number of low-income children in the State.

Column C = *State Cost Factor.* The State cost factor for a State is equal to the sum of: 0.15, and 0.85 multiplied by the ratio of the annual average wages in the health industry per employee for the State to the annual wages per employee in the health industry for the 50 States and the District of Columbia. The State cost factor for each State was calculated based on such wage data for each State as reported and determined as final by the BLS in the Department of Labor for each of the most recent 3 years and available before the beginning of the calendar year in which the fiscal year begins. The FY 2005 allotments were based on final BLS wage data for 2000, 2001, and 2002.

Column D = *Product.* The Product for each State was calculated by multiplying the Number of Children in Column B by the State Cost Factor in Column C. The sum of the Products for all 50 States and the District of Columbia is below the Products for each State in Column D. The Product for each State and the sum of the Products for all States provides the basis for allotment to States and the District of Columbia.

Column E = *Proportion of Total.* This is the calculated percentage share for each State of the total allotment available to the 50 States and the District of Columbia. The Percent Share of Total is calculated as the ratio of the Product for each State in Column D to the sum of the Products for all 50 States and the District of Columbia below the Products for each State in Column D.

Column F = *Adjusted Proportion of Total.* This is the calculated percentage share for each State of the total allotment available after the application of the floors and ceilings and after any further reconciliation needed to ensure that the sum of the State proportions is equal to one. The three floors specified in the statute are: (1) The percentage calculated by dividing $2,000,000 by the total of the amount available for all allotments for the fiscal year; (2) an annual floor of 90 percent of (that is, 10 percent below) the preceding fiscal year's allotment proportion; and (3) a cumulative floor of 70 percent of (that is, 30 percent below) the FY 1999 allotment proportion. There is also a cumulative ceiling of 145 percent of (that is, 45 percent above) the FY 1999 allotment proportion.

Column G = *Allotment.* This is the SCHIP allotment for each State, Commonwealth, or Territory for the fiscal year. For each of the 50 States and the District of Columbia, this is determined as the Adjusted Proportion of Total in Column F for the State multiplied by the total amount available

for allotment for the 50 States and the District of Columbia for the fiscal year.

For each of the U.S. Territory and Commonwealths, the allotment is determined as the Proportion of Total in Column E multiplied by the total amount available for allotment to the U.S. Territories and Commonwealths. For the U.S. Territories and Commonwealths, the Proportion of Total in Column E is specified in section 2104(c) of the Act. The total amount is then allotted to the U.S. Territories and Commonwealths according to the percentages specified in section 2104 of the Act. There is no adjustment made to the allotments of the U.S. Territories and Commonwealths as they are not subject to the application of the floors and ceiling. As a result, Column F in the table, the Adjusted Proportion of Total, is empty for the U.S. Territories and Commonwealths.

BILLING CODE 4120–01–P

STATE CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FEDERAL FISCAL YEAR:						2005
A	B	C	D	E	F	G
STATE	NUMBER OF CHILDREN (000)	STATE COST FACTOR	PRODUCT	PROPORTION OF TOTAL (3)	ADJUSTED PROPORTION OF TOTAL (3)	ALLOTMENT (1)
ALABAMA	300	0.9846	294.8732	1.6761%	1.6842%	$68,041,101
ALASKA	37	1.0710	39.0924	0.2222%	0.2233%	$9,020,449
ARIZONA	424	1.0883	461.4297	2.6229%	2.6356%	$106,473,496
ARKANSAS	221	0.9564	210.8872	1.1987%	1.2045%	$48,661,587
CALIFORNIA	2,597	1.1138	2,892.5351	16.4419%	16.5214%	$667,443,669
COLORADO	246	1.0477	257.2136	1.4621%	1.4345%	$57,951,287
CONNECTICUT	141	1.1237	158.4445	0.9006%	0.9050%	$36,560,595
DELAWARE	33	1.1403	37.0593	0.2107%	0.2239%	$9,045,920
DISTRICT OF COLUMBIA	34	1.2281	41.7561	0.2374%	0.2385%	$9,635,097
FLORIDA	1,044	1.0351	1,080.1735	6.1400%	6.1697%	$249,246,758
GEORGIA	553	1.0269	567.3532	3.2250%	3.2406%	$130,915,014
HAWAII	64	1.1256	71.4771	0.4063%	0.3071%	$12,404,524
IDAHO	100	0.8991	89.9147	0.5111%	0.5136%	$20,747,545
ILLINOIS	690	1.0359	714.7913	4.0631%	4.0827%	$164,935,925
INDIANA	334	0.9541	318.1907	1.8087%	1.8174%	$73,421,543
IOWA	132	0.9280	122.4987	0.6963%	0.6997%	$28,266,206
KANSAS	136	0.9075	123.4217	0.7016%	0.7050%	$28,479,189
KENTUCKY	246	0.9543	234.2860	1.3317%	1.3382%	$54,060,786
LOUISIANA	377	0.8918	335.7691	1.9086%	1.9178%	$77,477,697
MAINE	58	0.9312	54.0081	0.3070%	0.3085%	$12,462,201
MARYLAND	191	1.0970	209.5324	1.1910%	1.1968%	$48,348,957
MASSACHUSETTS	249	1.0772	268.2311	1.5247%	1.4704%	$59,401,346
MICHIGAN	474	1.0191	482.5440	2.7429%	2.7562%	$111,345,557
MINNESOTA	163	1.0298	167.3460	0.9512%	0.9558%	$38,614,589
MISSISSIPPI	231	0.9036	208.7374	1.1865%	1.1923%	$48,165,511
MISSOURI	248	0.9448	233.8414	1.3292%	1.3356%	$53,958,180
MONTANA	61	0.8800	53.2371	0.3026%	0.3041%	$12,284,292
NEBRASKA	82	0.9091	74.0905	0.4211%	0.4232%	$17,096,147
NEVADA	148	1.1866	175.0283	0.9949%	0.9997%	$40,387,249
NEW HAMPSHIRE	39	1.0429	40.1528	0.2282%	0.2295%	$9,272,609
NEW JERSEY	324	1.1351	367.2209	2.0874%	2.0975%	$84,735,099
NEW MEXICO	162	0.9579	155.1784	0.8821%	1.0435%	$42,156,779
NEW YORK	1,085	1.0790	1,170.7287	6.6547%	6.6869%	$270,142,080
NORTH CAROLINA	532	1.0003	531.6589	3.0221%	2.7292%	$110,255,024
NORTH DAKOTA	32	0.8784	27.6698	0.1573%	0.1580%	$6,384,719
OHIO	562	0.9713	545.3688	3.1000%	3.1150%	$125,842,184
OKLAHOMA	266	0.8792	233.8660	1.3294%	1.4201%	$57,370,830
OREGON	201	1.0214	204.7931	1.1641%	1.1697%	$47,255,380
PENNSYLVANIA	570	0.9957	567.5645	3.2262%	3.2418%	$130,963,777
RHODE ISLAND	42	0.9769	40.5407	0.2304%	0.2316%	$9,354,646
SOUTH CAROLINA	235	1.0036	235.3492	1.3378%	1.3443%	$54,306,115
SOUTH DAKOTA	38	0.9115	34.1797	0.1943%	0.1952%	$7,886,854
TENNESSEE	335	1.0223	341.9528	1.9437%	1.9531%	$78,904,574
TEXAS	2,006	0.9724	1,950.0674	11.0847%	11.1383%	$449,972,119
UTAH	152	0.9038	137.3763	0.7809%	0.7847%	$31,699,161
VERMONT	24	0.9189	21.5943	0.1227%	0.1214%	$4,902,630
VIRGINIA	328	1.0075	330.4696	1.8785%	1.8876%	$76,254,851
WASHINGTON	325	0.9884	320.7442	1.8232%	1.6017%	$64,705,479
WEST VIRGINIA	117	0.9085	105.8420	0.6016%	0.6045%	$24,422,724
WISCONSIN	225	0.9991	224.7935	1.2778%	1.2840%	$51,870,414
WYOMING	30	0.9350	27.5823	0.1568%	0.1575%	$6,364,535
TOTAL STATES ONLY			17,592.4571	100.0000%	100.0000%	$4,039,875,000
ALLOTMENTS FOR COMMONWEALTHS AND TERRITORIES (2)						
PUERTO RICO				91.6%		$38,952,900
GUAM				3.5%		$1,488,375
VIRGIN ISLANDS				2.6%		$1,105,650
AMERICAN SAMOA				1.2%		$510,300
N. MARIANA ISLANDS				1.1%		$467,775
TOTAL COMMONWEALTHS AND TERRITORIES ONLY				100.0%		$42,525,000
TOTAL STATES AND COMONWEALTHS AND TERRITORIES						$4,082,400,000

FOOTNOTES

The numbers in Columns B - F are rounded for presentation purposes; the actual numbers used in the allotment calculations are not rounded

(1) Total amount available for allotment to the 50 States and the District of Columbia is $4,039,875,000; determined as the fiscal year appropriation ($4,050,000,000) reduced by the total amount available for allotment to the Commonwealths and Territories under section 2104(c) of the Act ($10,125,000)

(2) Total amount available for allotment to the Commonwealths and Territories is $10,125,000 (.25 percent of $4,050,000,000, the fiscal year appropriation), plus $32,400,000, as specified in section 2104(c)(4)(B) of the Act

(3) Percent share of total amount available for allotment to the Commonwealths and Territories is as specified in section 2104(c) of the Act

BILLING CODE 4120–01–C

IV. Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

We have examined the impact of this notice as required by Executive Order 12866. Executive Order 12866 directs

agencies to assess all costs and benefits of available regulatory alternatives and, when rules are necessary, to select regulatory approaches that maximize net benefits (including potential economic environments, public health and safety, other advantages, distributive impacts, and equity). We believe that this notice is consistent with the regulatory philosophy and principles identified in the Executive Order. The formula for the allotments is specified in the statute. Since the formula is specified in the statute, we have no discretion in determining the allotments. This notice merely announces the results of our application of this formula, and therefore does not reach the economic significance threshold of $100 million in any one year.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any one year. Individuals and States are not included in the definition of a small entity; therefore, this requirement does not apply.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits before publishing any notice that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $110 million or more (adjusted each year for inflation) in any one year. Since participation in the SCHIP program on the part of States is voluntary, any payments and expenditures States make or incur on behalf of the program that are not reimbursed by the Federal government are made voluntarily. This notice will not create an unfunded mandate on States, tribal, or local governments because it merely notifies States of their SCHIP allotment for FY 2005. Therefore, we are not required to perform an assessment of the costs and benefits of this notice.

Low-income children will benefit from payments under SCHIP through increased opportunities for health insurance coverage. We believe this notice will have an overall positive impact by informing States, the District of Columbia, and U.S. Territories and Commonwealths of the extent to which they are permitted to expend funds under their child health plans using their FY 2005 allotments.

Under Executive Order 13132, we are required to adhere to certain criteria regarding Federalism. We have reviewed this notice and determined that it does not significantly affect States' rights, roles, and responsibilities because it does not set forth any new policies.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Section 1102 of the Social Security Act (42 U.S.C. 1302).) (Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program)

Dated: May 17, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Dated: June 14, 2004.

Tommy G. Thompson,

Secretary.

[FR Doc. 04–19573 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4067–PN]

RIN 0938–ZA53

Medicare and Medicaid Programs; Application by the Utilization Review Accreditation Commission (URAC) for Deeming Authority for Medicare Advantage

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice announces the receipt of an application from the Utilization Review Accreditation Commission for recognition as a national accreditation program for managed care organizations that wish to participate in the Medicare Advantage program. The statute requires that within 60 days of receipt of an organization's complete application, we will announce our receipt of the accreditation organization's application for approval, describe the criteria we will use in evaluating the application, and provide at least a 30-day public comment period.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 27, 2004.

ADDRESSES: In commenting, please refer to file code CMS–4067–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/regulations/ecomments.* (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By mail.* You may mail written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4067-PN, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–3159 in advance to schedule your arrival with one of our staff members. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and

retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Heidi Adams, (410) 786–1094.

SUPPLEMENTARY INFORMATION: *Submitting Comments:* We welcome comments from the public on all issues set forth in this proposed notice to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–4067–PN and the specific ''issue identifier'' that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. After the close of the comment period, CMS posts all electronic comments received before the close of the comment period on its public Web site. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7195.

This **Federal Register** document is available from the Federal Register online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: *http://www.gpoaccess.gov/fr/index.html*.

I. Background

[If you choose to comment on issues in this section, please include the caption ''Background'' at the beginning of your comments.]

Under the Medicare program, eligible beneficiaries may receive covered services through a managed care organization (MCO) that has a Medicare Advantage (MA) (formerly, Medicare+Choice) contract with the Centers for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements that must be met in order for an MCO to enter into an MA contract with CMS are located at 42 CFR part 422. These regulations implement part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MCO must provide and the requirements that the organization must meet to be an MA contractor. Other relevant sections of the Act are parts A and B of Title XVIII and part A of Title XI pertaining to the provision of services by Medicare certified providers and suppliers.

Generally, for an organization to enter into an MA contract, the organization must be licensed by the State as a risk bearing organization as set forth in part 422 of our regulations. Additionally, the organization must file an application demonstrating that it meets other Medicare requirements in part 422 of our regulations. Following approval of the contract, we engage in routine monitoring and oversight audits of the MA organization to ensure continuing compliance. The monitoring and oversight audit process is comprehensive and uses a written protocol that itemizes the Medicare requirements the MA organization must meet.

As an alternative for meeting some Medicare requirements, an MA organization may be exempt from CMS monitoring of certain requirements in subsets listed in section 1852(e)(4)(B) of the Act as a result of an MA organization's accreditation by a CMS-approved accrediting organization (AO). In essence, the Secretary ''deems'' that the Medicare requirements are met based on a determination that the AO's standards are at least as stringent as Medicare requirements. As we specify at § 422.157(b)(2) of our regulations, the term for which an AO may be approved by CMS may not exceed 6 years. For continuing approval, the AO will have to re-apply to CMS.

The applicant organization is generally recognized as an entity that accredits MCOs that are licensed as a health maintenance organization (HMO) or a preferred provider organization (PPO).

II. Approval of Deeming Organizations

[If you choose to comment on issues in this section, please include the caption ''Approval of Deeming Organizations'' at the beginning of your comments.]

Section 1852(e)(4)(C) of the Act requires that within 210 days of receipt of an application, the Secretary shall determine whether the applicant meets criteria specified in section 1865(b)(2) of the Act. Under these criteria, the Secretary will consider for a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

Section 1865(b)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accreditation body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from our receipt of a completed application to publish approval or denial of the application.

The purpose of this notice is to inform the public of our consideration of the Utilization Review Accreditation Commission's (URAC's) application for approval of deeming authority of MA organizations that are licensed as an HMO for the following six categories:

- Quality improvement.
- Access to services.
- Antidiscrimination.
- Information on advance directives.
- Provider participation rules.
- Confidentiality and accuracy of enrollees' records.

This notice also solicits public comment on the ability of the applicant's accreditation program to meet or exceed the Medicare requirements for which it seeks authority to deem.

III. Evaluation of Deeming Request

[If you choose to comment on issues in this section, please include the caption ''Evaluation of Deeming Request'' at the beginning of your comments.]

On June 4, 2004, URAC submitted all the necessary information to permit us to make a determination concerning its request for approval as a deeming authority for MA organizations that are licensed as an HMO. Under § 422.158(a) of the regulations, our review and evaluation of a national accreditation organization will consider, but not necessarily be limited to, the following information and criteria:

- The equivalency of URAC's requirements for HMOs to CMS' comparable MA organization requirements.
- URAC's survey process, to determine the following:
  + The frequency of surveys.
  + The types of forms, guidelines and instructions used by surveyors.
  + Descriptions of the accreditation decision making process, deficiency notification and monitoring process, and compliance

enforcement process.

- Detailed information about individuals who perform accreditation surveys including—
  + Size and composition of the survey team;
  + Education and experience requirements for the surveyors;
  + In-service training required for surveyor personnel;
  + Surveyor performance evaluation systems; and
  + Conflict of interest policies relating to individuals in the survey and accreditation decision process.
- Descriptions of the organization's—
  + Data management and analysis system;
  + Policies and procedures for investigating and responding to complaints against accredited organizations; and
  + Types and categories of accreditation offered and MA organizations currently accredited within those types and categories.

In accordance with § 422.158(b) of our regulations, the applicant must provide documentation relating to—

- Its ability to provide data in a CMS-compatible format;
- The adequacy of personnel and other resources necessary to perform the required surveys and other activities; and
- Assurances that it will comply with ongoing responsibility requirements specified in § 422.157(c) of our regulations.

Additionally, the accrediting organization must provide CMS the opportunity to observe its accreditation process on site at a managed care organization and must provide any other information that CMS requires to prepare for an onsite visit to the AO's offices.

These site visits will help to verify that the information presented in the application is correct and to make a determination on the application.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

V. Regulatory Impact Statement

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

Authority: Section 1852 of the Social Security Act (42 U.S.C. 1395w–22).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: August 18, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 04–19260 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Minnesota's Medicaid State Plan Amendment 03–06

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on October 21, 2004, at 10 a.m., 233 North Michigan Avenue,Suite 600; RE–6E Board Room; Chicago, Illinois 60601 to reconsider our decision to disapprove Minnesota State PlanAmendment (SPA) 03–06.

DATES: Requests to participate in the hearing as a party must be received by the presiding officer by September 13, 2004.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes; Presiding Officer,CMS,Lord Baltimore Drive,Mail Stop: LB–23–20,Baltimore, Maryland 21244,Telephone: 410–786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Minnesota's Medicaid State Plan Amendment (SPA) 03–06. This SPA was submitted on March 31, 2003, with a proposed effective date of January 1, 2003. This amendment would modify the State's reimbursement methodology for nursing facility services. Specifically, it would increase a disproportionate share nursing facility add-on made to 14 of the State's county-owned nursing facilities. The Centers for Medicare & Medicaid Services (CMS) was unable to approve SPA 03–06 because the State did not document that the proposed payment methodology, in combination with funding requirements under section 4.19 D of the State's plan, meet the conditions specified in sections 1902(a)(2), 1902(a)(30)(A), and 1902(a)(19) of the Social Security Act (the Act) and are consistent with the overall Federal-state financial partnership under title XIX of the Act.

In formal requests for additional information and several subsequent discussions, CMS asked that the State describe any transfers of funds between providers and State or local governments, and indicate whether the providers kept 100 percent of the total computable funds given as Medicaid payments. The State did not provide the requested information on transfers of funds between providers and local governments, nor did it indicate that the providers keep 100 percent of the total computable funds given as Medicaid payments.

The State provided information about the flow of funds between the State and local governments and from the State to providers. However, the State did not provide information about the flow of funds from providers to the State or to local governments. This information is necessary in order to validate the funding sources of the non-Federal share of Medicaid payments and to determine the appropriateness of the payment levels. If providers refund part or all of the Medicaid payments to the State or its political subdivisions, the proposed payment rate would not reflect the net expenditure by the State, and the net non-Federal share would not meet the requirements of section 1902(a)(2) of the Act. Moreover, if such refunds are made by providers, it is an indication that the full payment amount is not required to ensure Medicaid beneficiaries access to the providers' services. The result is that payments under this section of the plan would not be in compliance with the requirement under section 1902(a)(30)(A) of the Act that payment rates must be consistent with ''efficiency, economy, and quality of care.''

Since the State has not provided the necessary information regarding provider payment retention, CMS could not find that SPA 03–06 is consistent with the requirement of section 1902(a)(19) of the Act that requires that care and services will be provided consistent with ''simplicity of administration and the best interests of the recipients.'' The best interest of recipients is not served by a proposed payment structure that would divert Medicaid payments from the providers to the State and shift financial burdens from the State to the Federal

Government. The best interest of recipients requires that the full amount of Medicaid payments should be available to support access to quality care and services. Furthermore, SPA 03–06 was not consistent with the requirements for a State plan that are set forth in the regulations implementing section 1902(a) of the Act. Under 42 CFR 430.10, the State plan must contain all the information necessary for CMS to determine whether the plan can serve as a basis for Federal financial participation (FFP) availability under section 1903(a)(1) of the Act. CMS could not determine whether the proposed plan amendment sets forth a payment methodology that could be a basis for FFP without information about whether providers refund payments and, if so, whether these refunds are offset against expenditures as an applicable credit.

Moreover, absent the requested information, the State did not document whether the proposed payment methodology set forth under SPA 03–06 is consistent with the basic Federal and State financial partnership of the Medicaid program set forth by the Congress. Section 1905(b) of the Act specifies how the Federal medical assistance percentage will be calculated for states. This section clearly sets forth how the financial partnership of the Medicaid program should operate, including a definition of the required non-Federal expenditure. The requested information is necessary to determine whether the proposed payments under SPA 03–06 would accurately reflect net expenditures with a sufficient non-Federal share consistent with the Federal and State financial partnership set forth in section 1905(b) of the Act.

For these reasons, and after consultation with the Secretary as required by Federal regulations at 42 CFR 430.15, CMS disapproved this SPA.

Section 1116 of the Act and 42 CFR, part 430 establish Departmental procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants. Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved Minnesota SPA 03–06.

The notice to Minnesota announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Mary Kennedy, Medical Director, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155–3852.

Dear Ms. Kennedy: Minnesota submitted State Plan Amendment (SPA) 03–06 on March 31, 2003, with a proposed effective date of January 1, 2003. This amendment proposes to modify the State's reimbursement methodology for nursing facility services. Specifically, this amendment increases a disproportionate share nursing facility add-on made to 14 of the State's county-owned nursing facilities. The Centers for Medicare & Medicaid Services (CMS) was unable to approve SPA 03–06 because the State did not document that the proposed payment methodology, in combination with funding requirements under section 4.19 D of the State's plan, meet the conditions specified in sections 1902(a)(2), 1902(a)(30)(A), and 1902(a)(19) of the Social Security Act (the Act) and are consistent with the overall Federal-state financial partnership under title XIX of the Act.

In formal requests for additional information and several subsequent discussions, CMS asked that the State describe any transfers of funds between providers and State or local governments, and indicate whether the providers keep 100 percent of the total computable funds given as Medicaid payments. The State did not provide the requested information on transfers of funds between providers and local governments, nor did it indicate that the providers keep 100 percent of the total computable funds given as Medicaid payments.

The State provided information about the flow of funds between the State and local governments and from the State to providers. However, the State did not provide information about the flow of funds from providers to the State or to local governments. This information is necessary in order to validate the funding sources of the non-Federal share of Medicaid payments and to determine the appropriateness of the payment levels. If providers refund part or all of the Medicaid payments to the State or its political subdivisions, the proposed payment rate would not reflect the net expenditure by the State, and the net non-Federal share would not meet the requirements of section 1902(a)(2) of the Act. Moreover, if such refunds are made by providers, it is an indication that the full payment amount is not required to ensure Medicaid beneficiaries access to the providers' services. The result is that payments under this section of the plan would not be in compliance with the requirement under section 1902(a)(30)(A) of the Act that payment rates must be consistent with ''efficiency, economy, and quality of care.''

Since the State did not provide the necessary information regarding provider payment retention, CMS could not find that SPA 03–06 is consistent with the requirement of section 1902(a)(19) of the Act that care and services are consistent with ''simplicity of administration and the best interests of the recipients.'' The best interest of recipients is not served by a proposed payment structure that would divert Medicaid payments from the providers to the State and shift financial burdens from the State to the Federal Government. The best interest of recipients requires that the full amount of Medicaid payments are available to support access to quality care and services. Furthermore, SPA 03–06 is not consistent with the requirements for a State plan that are set forth in the regulations implementing section 1902(a) of the Act. Under 42 CFR 430.10, the State plan must contain all the information necessary for CMS to determine whether the plan can serve as a basis for Federal financial participation (FFP) that would be available under section 1903(a)(1) of the Act. CMS cannot determine whether the proposed plan amendment sets forth a payment methodology that could be a basis for FFP without information about whether providers refund payments and, if so, whether these refunds are offset against expenditures as an applicable credit.

Moreover, absent the requested information, the State did not document whether the proposed payment methodology set forth under SPA 03–06 is consistent with the basic Federal and State financial partnership of the Medicaid program set forth by the Congress. Section 1905(b) of the Act specifies how the Federal medical assistance percentage will be calculated for states. This section clearly sets forth how the financial partnership of the Medicaid program should operate, including a definition of the required non-Federal expenditure. The requested information is necessary to determine whether the proposed payments under SPA 03–06 would accurately reflect net expenditures with a sufficient non-Federal share consistent with the Federal and State financial partnership set forth in section 1905(b) of the Act.

For these reasons, and after consultation with the Secretary as required by 42 CFR 430.15(c)(2), CMS disapproved Minnesota SPA 03–06.

I am scheduling a hearing on your request for reconsideration to be held on October 21, 2004, at 10 a.m., at 233 North Michigan Avenue, Suite 600, RE–6E Board Room, Chicago, Illinois 60601. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these

arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,

Mark B. McClellan, M.D., Ph.D.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR Section 430.18

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: August 18, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1264–N]

RIN 0938–AM78

Medicare Program; Hospice Wage Index for Fiscal Year 2005

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the annual update to the hospice wage index as required by statute. This fiscal year 2005 update is effective from October 1, 2004 through September 30, 2005. The wage index is used to reflect local differences in wage levels. The hospice wage index methodology and values are based on recommendations of a negotiated rulemaking advisory committee and were originally published in the August 8, 1997 **Federal Register**.

EFFECTIVE DATE: October 1, 2004.

FOR FURTHER INFORMATION CONTACT: Terri Deutsch, (410) 786–9462.

SUPPLEMENTARY INFORMATION:

I. Background

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in the focus from curative care to palliative care (relief of pain and other uncomfortable symptoms). The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling and inpatient respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. The statutory authority for payment to hospices participating in the Medicare program is contained in section 1814(i) of the Act.

Our existing regulations under 42 CFR part 418 establish eligibility requirements and payment standards and procedures, define covered services, and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Subpart G of part 418 provides for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of a hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Payment rates are established for each category.

The regulations at § 418.306(c), which require the rates to be adjusted by a wage index, were revised in the August 8, 1997 final rule (62 FR 42860). This rule implemented a new methodology for calculating the hospice wage index based on the recommendations of a negotiated rulemaking committee. The committee reached consensus on the methodology. We included the resulting committee statement, describing that consensus, as an appendix to the August 8, 1997 final rule (62 FR 42883). The provisions of the final hospice wage index rule are as follows:

- The revised hospice wage index will be calculated using the most current available hospital wage data.
- The revised hospice wage index was phased in over a 3-year transition period.

For the first year of the transition period, October 1, 1997 through September 30, 1998, a blended index was calculated by adding two-thirds of the 1983 index value for an area to one-third of the revised wage index value for that area. During the second year of the transition period, October 1, 1998 through September 30, 1999, the calculation was similar, except that the blend was one-third of the 1983 index value and two-thirds of the revised wage index value for that area. We fully implemented the revised wage index during the third year of the transition period,October 1, 1999 through September 30, 2000.

Payments to hospices under the wage index (as published in the August 8, 1997 final hospice wage index rule) are subject to a budget-neutrality adjustment to ensure that aggregate adjustments to payment using the new wage index, irrespective of other payment adjustments, are not greater than they would have been had the original 1983 wage index been applied. To achieve this budget neutrality, the hospice wage index is multiplied by a budget-neutrality factor. The budget-neutrality factor is computed and applied annually. The hospice budget-neutrality adjustment is not applied uniformly to all providers in calculating payments. Based on the methodology developed and signed by the negotiated rulemaking committee and adopted by CMS, a hospice's area wage index is adjusted using either the budget-neutrality factor or the hospice wage index floor described below.

Hospice wage index values of 0.8 or greater are multiplied by the budget-neutrality factor.

Hospice wage index values below 0.8 are adjusted by the greater of: (1) The hospice budget-neutrality factor; or (2) the hospice wage index floor (a 15 percent increase, subject to a maximum wage index value of 0.8).

The wage index is to be updated annually, in the **Federal Register**, based on the most current available hospital wage data. These data will include any changes to the definitions of Metropolitan Statistical Areas (MSAs). We acknowledge that on June 6, 2003, the Office of Management and Budget (OMB) issued an OMB Bulletin(No. 03–04) announcing revised definitions for MSAs, new definitions for Micropolitan Statistical Areas and Combined Statistical Areas, and guidance on using the statistical definitions. A copy of the Bulletin may be obtained at the following Internet address: *http://www.whitehouse.gov/omb/bulletins/b03–04.html*. These new definitions will not apply to the 2005 fiscal year (FY) wage index used in this **Federal Register** notice because we use the FY 2004 hospital wage index that does not reflect these revisions. The new definitions will be addressed in the FY 2006 wage index.

Section 4441(a) of the Balanced Budget Act of 1997 (BBA) amended

section 1814(i)(1)(C)(ii) of the Act to establish updates to hospice rates for FYs 1998 through 2002. Hospice rates were to be updated by a factor equal to the market basket index, minus 1 percentage point. However, neither the BBA nor subsequent legislation specified the market basket adjustment to be used to compute payment for FY 2005. Therefore, payment rates for FY 2005 will be updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates after 2002 will be the market basket percentage for the FY. Accordingly, the FY 2005 update to the payment rates will be the full market basket percentage increase for FY 2005. This rate update is implemented through a separate Recurring Update Notification published July 2004 and is not part of this notice. Historically, the rate update has been published through a separate program memorandum issued annually in July to provide adequate time to implement system change requirements. The wage index in this notice is applied to the labor portion of the rates published in the Recurring Update Notification in order for providers to determine their payment rates.

II. Provisions of the Notice

A. Update to the Hospice Wage Index

This annual update is effective October 1, 2004 through September 30, 2005. In accordance with the agreement we signed with other members of the Hospice Wage Index Negotiated Rulemaking Committee, we are using the most current hospital data available to us. The FY 2004 hospital wage index was the most current hospital wage data available when the FY 2005 wage index values were calculated. We used the pre-reclassified and pre-floor hospital area wage index data.

All wage index values are adjusted by a budget-neutrality factor of 1.065819 and are subject to the wage index floor adjustment, if applicable. We have completed all of the calculations described above and have included them in the wage index values reflected in both Tables A and B below. A detailed description of the method used to compute the hospice wage index is contained in both the September 4, 1996 proposed rule (61 FR 46579) and the August 8, 1997 final rule (62 FR 42860).

B. Tables

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
0040	Abilene, TX	0.8129
	Taylor, TX.	
0060	Aguadilla, PR	0.4952
	Aguada, PR.	
	Aguadilla, PR.	
	Moca, PR.	
0080	Akron, OH	0.9855
	Portage, OH.	
	Summit, OH.	
0120	Albany, GA	1.1578
	Dougherty, GA.	
	Lee, GA.	
0160	Albany-Schenectady-Troy, NY.	0.9048
	Albany, NY.	
	Montgomery, NY.	
	Rensselaer, NY.	
	Saratoga, NY.	
	Schenectady, NY.	
	Schoharie, NY.	
0200	Albuquerque, NM	0.9912
	Bernalillo, NM.	
	Sandoval, NM.	
	Valencia, NM.	
0220	Alexandria, LA	0.8547
	Rapides, LA.	
0240	Allentown-Bethlehem-Easton, PA.	1.0361
	Carbon, PA.	
	Lehigh, PA.	
	Northampton, PA.	
0280	Altoona, PA	0.9386
	Blair, PA.	
0320	Amarillo, TX	0.9577
	Potter, TX.	
	Randall, TX.	
0380	Anchorage, AK	1.3020
	Anchorage, AK.	
0440	Ann Arbor, MI	1.1803
	Lenawee, MI.	
	Livingston, MI.	
	Washtenaw, MI.	
0450	Anniston, AL	0.8622
	Calhoun, AL.	
0460	Appleton-Oshkosh-Neenah, WI.	0.9630
	Calumet, WI.	
	Outagamie, WI.	
	Winnebago, WI.	
0470	Arecibo, PR	0.4778
	Arecibo, PR.	
	Camuy, PR.	
	Hatillo, PR.	
0480	Asheville, NC	1.0360
	Buncombe, NC.	
	Madison, NC.	
0500	Athens, GA	1.0464
	Clarke, GA.	
	Madison, GA.	
	Oconee, GA.	
0520	Atlanta, GA	1.0797
	Barrow, GA.	
	Bartow, GA.	
	Carroll, GA.	
	Cherokee, GA.	
	Clayton, GA.	
	Cobb, GA.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Coweta, GA.	
	DeKalb, GA.	
	Douglas, GA.	
	Fayette, GA.	
	Forsyth, GA.	
	Fulton, GA.	
	Gwinnett, GA.	
	Henry, GA.	
	Newton, GA.	
	Paulding, GA.	
	Pickens, GA.	
	Rockdale, GA.	
	Spalding, GA.	
	Walton, GA.	
0560	Atlantic-Cape May, NJ	1.1506
	Atlantic, NJ.	
	Cape May, NJ.	
0580	Auburn-Opelika, AL	0.9053
	Lee, AL.	
0600	Augusta-Aiken, GA-SC	1.0259
	Columbia, GA.	
	McDuffie, GA.	
	Richmond, GA.	
	Aiken, SC.	
	Edgefield, SC.	
0640	Austin-San Marcos, TX	1.0241
	Bastrop, TX.	
	Caldwell, TX.	
	Hays, TX.	
	Travis, TX.	
	Williamson, TX.	
0680	Bakersfield, CA	1.0456
	Kern, CA.	
0720	Baltimore, MD	1.0572
	Anne Arundel, MD.	
	Baltimore, MD.	
	Baltimore City, MD.	
	Carroll, MD.	
	Harford, MD.	
	Howard, MD.	
	Queen Anne's, MD.	
0733	Bangor, ME	1.0556
	Penobscot, ME.	
0743	Barnstable-Yarmouth, MA.	1.3809
	Barnstable, MA.	
0760	Baton Rouge, LA	0.8959
	Ascension, LA.	
	East Baton Rouge, LA.	
	Livingston, LA.	
	West Baton Rouge, LA.	
0840	Beaumont-Port Arthur, TX.	0.8978
	Hardin, TX.	
	Jefferson, TX.	
	Orange, TX.	
0860	Bellingham, WA	1.2531
	Whatcom, WA.	
0870	Benton Harbor, MI	0.9455
	Berrien, MI.	
0875	Bergen-Passaic, NJ	1.2462
	Bergen, NJ.	
	Passaic, NJ.	
0880	Billings, MT	0.9551
	Yellowstone, MT.	
0920	Biloxi-Gulfport-Pascagoula, MS.	0.9623
	Hancock, MS.	
	Harrison, MS.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Jackson, MS.	
0960	Binghamton, NY	0.8983
	Broome, NY.	
	Tioga, NY.	
1000	Birmingham, AL	0.9818
	Blount, AL.	
	Jefferson, AL.	
	St. Clair, AL.	
	Shelby, AL.	
1010	Bismarck, ND	0.8489
	Burleigh, ND.	
	Morton, ND.	
1020	Bloomington, IN	0.9232
	Monroe, IN.	
1040	Bloomington-Normal, IL	0.9413
	McLean, IL.	
1080	Boise City, ID	0.9815
	Ada, ID.	
	Canyon, ID.	
1123	Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH.	1.1972
	Bristol, MA.	
	Essex, MA.	
	Middlesex, MA.	
	Norfolk, MA.	
	Plymouth, MA.	
	Suffolk, MA.	
	Worcester, MA.	
	Hillsborough, NH.	
	Merrimack, NH.	
	Rockingham, NH.	
	Strafford, NH.	
1125	Boulder-Longmont, CO	1.0710
	Boulder, CO.	
1145	Brazoria, TX	0.8673
	Brazoria, TX.	
1150	Bremerton, WA	1.1276
	Kitsap, WA.	
1240	Brownsville-Harlingen-San Benito, TX.	1.0981
	Cameron, TX.	
1260	Bryan-College Station, TX.	0.9613
	Brazos, TX.	
1280	Buffalo-Niagara Falls, NY.	1.0236
	Erie, NY.	
	Niagara, NY.	
1303	Burlington, VT	1.0343
	Chittenden, VT.	
	Franklin, VT.	
	Grand Isle, VT.	
1310	Caguas, PR	0.4782
	Caguas, PR.	
	Cayey, PR.	
	Cidra, PR.	
	Gurabo, PR.	
	San Lorenzo, PR.	
1320	Canton-Massillon, OH	0.9668
	Carroll, OH.	
	Stark, OH.	
1350	Casper, WY	0.9694
	Natrona, WY.	
1360	Cedar Rapids, IA	0.9458
	Linn, IA.	
1400	Champaign-Urbana, IL	1.0559
	Champaign, IL.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
1440	Charleston-North Charleston, SC.	0.9946
	Berkeley, SC.	
	Charleston, SC.	
	Dorchester, SC.	
1480	Charleston, WV	0.9464
	Kanawha, WV.	
	Putnam, WV.	
1520	Charlotte-Gastonia-Rock Hill, NC-SC.	1.0402
	Cabarrus, NC.	
	Gaston, NC.	
	Lincoln, NC.	
	Mecklenburg, NC.	
	Rowan, NC.	
	Stanly, NC.	
	Union, NC.	
	York, SC.	
1540	Charlottesville, VA	1.0685
	Albemarle, VA.	
	Charlottesville City, VA.	
	Fluvanna, VA.	
	Greene, VA.	
1560	Chattanooga, TN-GA ..	0.9684
	Catoosa, GA.	
	Dade, GA.	
	Walker, GA.	
	Hamilton, TN.	
	Marion, TN.	
1580	Cheyenne, WY	0.9375
	Laramie, WY.	
1600	Chicago, IL	1.1609
	Cook, IL.	
	DeKalb, IL.	
	Du Page, IL.	
	Grundy, IL.	
	Kane, IL.	
	Kendall, IL.	
	Lake, IL.	
	McHenry, IL.	
	Will, IL.	
1620	Chico-Paradise, CA	1.0864
	Butte, CA.	
1640	Cincinnati, OH-KY-IN ..	1.0033
	Brown, OH.	
	Clermont, OH.	
	Hamilton, OH.	
	Warren, OH.	
	Boone, KY.	
	Campbell, KY.	
	Gallatin, KY.	
	Grant, KY.	
	Kenton, KY.	
	Pendleton, KY.	
	Dearborn, IN.	
	Ohio, IN.	
1660	Clarksville-Hopkinsville, TN-KY.	0.8787
	Christian, KY.	
	Montgomery, TN.	
1680	Cleveland-Lorain-Elyria, OH.	1.0308
	Ashtabula, OH.	
	Cuyahoga, OH.	
	Geauga, OH.	
	Lake, OH.	
	Lorain, OH.	
	Medina, OH.	
1720	Colorado Springs, CO	1.0480

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	El Paso, CO.	
1740	Columbia, MO	0.9267
	Boone, MO.	
1760	Columbia, SC	0.9488
	Lexington, SC.	
	Richland, SC.	
1800	Columbus, GA-AL	0.9266
	Chattahochee, GA.	
	Harris, GA.	
	Muscogee, GA.	
	Russell, AL.	
1840	Columbus, OH	1.0283
	Delaware, OH.	
	Fairfield, OH.	
	Franklin, OH.	
	Licking, OH.	
	Madison, OH.	
	Pickaway, OH.	
1880	Corpus Christi, TX	0.9082
	Nueces, TX.	
	San Patricio, TX.	
1890	Corvallis, Oregon	1.2274
	Benton, OR.	
1900	Cumberland, MD-WV ..	0.8740
	Allegany, MD.	
	Mineral, WV.	
1920	Dallas, TX	1.0630
	Collin, TX.	
	Dallas, TX.	
	Denton, TX.	
	Ellis, TX.	
	Henderson, TX.	
	Hunt, TX.	
	Kaufman, TX.	
	Rockwall, TX.	
1950	Danville, VA	0.9630
	Danville City, VA.	
	Pittsylvania, VA.	
1960	Davenport-Moline-Rock Island, IA-IL.	0.9576
	Scott, IA.	
	Henry, IL.	
	Rock Island, IL.	
2000	Dayton-Springfield, OH	1.0144
	Clark, OH.	
	Greene, OH.	
	Miami, OH.	
	Montgomery, OH.	
2020	Daytona Beach, FL	0.9676
	Flagler, FL.	
	Volusia, FL.	
2030	Decatur, AL	0.9409
	Lawrence, AL.	
	Morgan, AL.	
2040	Decatur, IL	0.8698
	Macon, IL.	
2080	Denver, CO	1.1550
	Adams, CO.	
	Arapahoe, CO.	
	Denver, CO.	
	Douglas, CO.	
	Jefferson, CO.	
2120	Des Moines, IA	0.9705
	Dallas, IA.	
	Polk, IA.	
	Warren, IA.	
2160	Detroit, MI	1.0766
	Lapeer, MI.	
	Macomb, MI.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Monroe, MI.	
	Oakland, MI.	
	St. Clair, MI.	
	Wayne, MI.	
2180	Dothan, AL	0.8251
	Dale, AL.	
	Houston, AL.	
2190	Dover, DE	1.0450
	Kent, DE.	
2200	Dubuque, IA	0.9471
	Dubuque, IA.	
2240	Duluth-Superior, MN-WI.	1.0840
	St. Louis, MN.	
	Douglas, WI.	
2281	Dutchess County, NY ..	1.1654
	Dutchess, NY.	
2290	Eau Claire, WI	0.9661
	Chippewa, WI.	
	Eau Claire, WI.	
2320	El Paso, TX	0.9801
	El Paso, TX.	
2330	Elkhart-Goshen, IN	1.0427
	Elkhart, IN.	
2335	Elmira, NY	0.8928
	Chemung, NY.	
2340	Enid, OK	0.9122
	Garfield, OK.	
2360	Erie, PA	0.9167
	Erie, PA.	
2400	Eugene-Springfield, OR.	1.2210
	Lane, OR.	
2440	Evansville-Henderson, IN-KY.	0.8984
	Posey, IN.	
	Vanderburgh, IN.	
	Warrick, IN.	
	Henderson, KY.	
2520	Fargo-Moorhead, ND-MN.	1.0442
	Clay, MN.	
	Cass, ND.	
2560	Fayetteville, NC	0.9577
	Cumberland, NC.	
2580	Fayetteville-Springdale-Rogers, AR.	0.8949
	Benton, AR.	
	Washington, AR.	
2620	Flagstaff, AZ-UT	1.2079
	Coconino, AZ.	
	Kane, UT.	
2640	Flint, MI	1.1573
	Genesee, MI.	
2650	Florence, AL	0.8257
	Colbert, AL.	
	Lauderdale, AL.	
2655	Florence, SC	0.9282
	Florence, SC.	
2670	Fort Collins-Loveland, CO.	1.0773
	Larimer, CO.	
2680	Ft. Lauderdale, FL	1.0832
	Broward, FL.	
2700	Fort Myers-Cape Coral, FL.	1.0462
	Lee, FL.	
2710	Fort Pierce-Port St. Lucie, FL.	1.0667

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Martin, FL.	
	St. Lucie, FL.	
2720	Fort Smith, AR-OK	0.8978
	Crawford, AR.	
	Sebastian, AR.	
	Sequoyah, OK.	
2750	Fort Walton Beach, FL	0.9556
	Okaloosa, FL.	
2760	Fort Wayne, IN	1.0216
	Adams, IN.	
	Allen, IN.	
	De Kalb, IN.	
	Huntington, IN.	
	Wells, IN.	
	Whitley, IN.	
2800	Forth Worth-Arlington, TX.	0.9975
	Hood, TX.	
	Johnson, TX.	
	Parker, TX.	
	Tarrant, TX.	
2840	Fresno, CA	1.0758
	Fresno, CA.	
	Madera, CA.	
2880	Gadsden, AL	0.8746
	Etowah, AL.	
2900	Gainesville, FL	1.0331
	Alachua, FL.	
2920	Galveston-Texas City, TX.	0.9890
	Galveston, TX.	
2960	Gary, IN	1.0029
	Lake, IN.	
	Porter, IN.	
2975	Glens Falls, NY	0.9033
	Warren, NY.	
	Washington, NY.	
2980	Goldsboro, NC	0.9189
	Wayne, NC.	
2985	Grand Forks, ND-MN ..	0.9204
	Grand Forks, ND.	
	Polk, MN.	
2995	Grand Junction, CO	1.0267
	Mesa, CO.	
3000	Grand Rapids-Muskegon-Holland, MI.	1.0092
	Allegan, MI.	
	Kent, MI.	
	Muskegon, MI.	
	Ottawa, MI.	
3040	Great Falls, MT	0.9389
	Cascade, MT.	
3060	Greeley, CO	0.9989
	Weld, CO.	
3080	Green Bay, WI	1.0084
	Brown, WI.	
3120	Greensboro-Winston-Salem-High Point, NC.	0.9769
	Alamance, NC.	
	Davidson, NC.	
	Davie, NC.	
	Forsyth, NC.	
	Guilford, NC.	
	Randolph, NC.	
	Stokes, NC.	
	Yadkin, NC.	
3150	Greenville, NC	0.9697
	Pitt, NC.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
3160	Greenville-Spartanburg-Anderson, SC.	0.9949
	Anderson, SC.	
	Cherokee, SC.	
	Greenville, SC.	
	Pickens, SC.	
	Spartanburg, SC.	
3180	Hagerstown, MD	0.9776
	Washington, MD.	
3200	Hamilton-Middletown, OH.	0.9820
	Butler, OH.	
3240	Harrisburg-Lebanon-Carlisle, PA.	0.9767
	Cumberland, PA.	
	Dauphin, PA.	
	Lebanon, PA.	
	Perry, PA.	
3283	Hartford, CT	1.2316
	Hartford, CT.	
	Litchfield, CT.	
	Middlesex, CT.	
	Tolland, CT.	
3285	Hattiesburg, MS	0.8000
	Forrest, MS.	
	Lamar, MS.	
3290	Hickory-Morganton-Lenoir, NC.	0.9850
	Alexander, NC.	
	Burke, NC.	
	Caldwell, NC.	
	Catawba, NC.	
3320	Honolulu, HI	1.1828
	Honolulu, HI.	
3350	Houma, LA	0.8258
	Lafourche, LA.	
	Terrebonne, LA.	
3360	Houston, TX	1.0481
	Chambers, TX.	
	Fort Bend, TX.	
	Harris, TX.	
	Liberty, TX.	
	Montgomery, TX.	
	Waller, TX.	
3400	Huntington-Ashland, WV-KY-OH.	1.0227
	Boyd, KY.	
	Carter, KY.	
	Greenup, KY.	
	Lawrence, OH.	
	Cabell, WV.	
	Wayne, WV.	
3440	Huntsville, AL	0.9853
	Limestone, AL.	
	Madison, AL.	
3480	Indianapolis, IN	1.0569
	Boone, IN.	
	Hamilton, IN.	
	Hancock, IN.	
	Hendricks, IN.	
	Johnson, IN.	
	Madison, IN.	
	Marion, IN.	
	Morgan, IN.	
	Shelby, IN.	
3500	Iowa City, IA	1.0176
	Johnson, IA.	
3520	Jackson, MI	0.9577

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Jackson, MI.	
3560	Jackson, MS	0.8907
	Hinds, MS.	
	Madison, MS.	
	Rankin, MS.	
3580	Jackson, TN	0.9575
	Madison, TN.	
	Chester, TN.	
3600	Jacksonville, FL	1.0156
	Clay, FL.	
	Duval, FL.	
	Nassau, FL.	
	St. Johns, FL.	
3605	Jacksonville, NC	0.9106
	Onslow, NC.	
3610	Jamestown, NY	0.8273
	Chautauqua, NY.	
3620	Janesville-Beloit, WI	0.9893
	Rock, WI.	
3640	Jersey City, NJ	1.1847
	Hudson, NJ.	
3660	Johnson City-Kingsport-Bristol, TN-VA.	0.8796
	Carter, TN.	
	Hawkins, TN.	
	Sullivan, TN.	
	Unicoi, TN.	
	Washington, TN.	
	Bristol City, VA.	
	Scott, VA.	
	Washington, VA.	
3680	Johnstown, PA	0.8695
	Cambria, PA.	
	Somerset, PA.	
3700	Jonesboro, AR	0.8307
	Craighead, AR.	
3710	Joplin, MO	0.9252
	Jasper, MO.	
	Newton, MO.	
3720	Kalamazoo-Battlecreek, MI.	1.1191
	Calhoun, MI.	
	Kalamazoo, MI.	
	Van Buren, MI.	
3740	Kankakee, IL	1.1105
	Kankakee, IL.	
3760	Kansas City, KS-MO ...	1.0354
	Johnson, KS.	
	Leavenworth, KS.	
	Miami, KS.	
	Wyandotte, KS.	
	Cass, MO.	
	Clay, MO.	
	Clinton, MO.	
	Jackson, MO.	
	Lafayette, MO.	
	Platte, MO.	
	Ray, MO.	
3800	Kenosha, WI	1.0403
	Kenosha, WI.	
3810	Killeen-Temple, TX	0.9762
	Bell, TX.	
	Coryell, TX.	
3840	Knoxville, TN	0.9401
	Anderson, TN.	
	Blount, TN.	
	Knox, TN.	
	Loudon, TN.	
	Sevier, TN.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Union, TN.	
3850	Kokomo, IN	0.9640
	Howard, IN.	
	Tipton, IN.	
3870	La Crosse, WI-MN	0.9856
	Houston, MN.	
	La Crosse, WI.	
3880	Lafayette, LA	0.8728
	Acadia, LA.	
	Lafayette, LA.	
	St. Landry, LA.	
	St. Martin, LA.	
3920	Lafayette, IN	0.9631
	Clinton, IN.	
	Tippecanoe, IN.	
3960	Lake Charles, LA	0.8357
	Calcasieu, LA.	
3980	Lakeland-Winter Haven, FL.	0.9391
	Polk, FL.	
4000	Lancaster, PA	0.9893
	Lancaster, PA.	
4040	Lansing-East Lansing, MI.	1.0353
	Clinton, MI.	
	Eaton, MI.	
	Ingham, MI.	
4080	Laredo, TX	0.8624
	Webb, TX.	
4100	Las Cruces, NM	0.9260
	Dona Ana, NM.	
4120	Las Vegas, NV-AZ	1.2287
	Mohave, AZ.	
	Clarke, NV.	
	Nye, NV.	
4150	Lawrence, KS	0.9248
	Douglas, KS.	
4200	Lawton, OK	0.8811
	Comanche, OK.	
4243	Lewiston-Auburn, ME ..	1.0001
	Androscoggin, ME.	
4280	Lexington, KY	0.9257
	Bourbon, KY.	
	Clark, KY.	
	Fayette, KY.	
	Jessamine, KY.	
	Madison, KY.	
	Scott, KY.	
	Woodford, KY.	
4320	Lima, OH	1.0149
	Allen, OH.	
	Auglaize, OH.	
4360	Lincoln, NE	1.0693
	Lancaster, NE.	
4400	Little Rock-North Little Rock, AR.	0.9510
	Faulkner, AR.	
	Lonoke, AR.	
	Pulaski, AR.	
	Saline, AR.	
4420	Longview-Marshall, TX	0.9713
	Gregg, TX.	
	Harrison, TX.	
	Upshur, TX.	
4480	Los Angeles-Long Beach, CA.	1.2571
	Los Angeles, CA.	
4520	Louisville, KY-IN	0.9850
	Clark, IN.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Floyd, IN.	
	Harrison, IN.	
	Scott, IN.	
	Bullitt, KY.	
	Jefferson, KY.	
	Oldham, KY.	
4600	Lubbock, TX	0.8816
	Lubbock, TX.	
4640	Lynchburg, VA	0.9735
	Amherst, VA.	
	Bedford, VA.	
	Bedford City, VA.	
	Campbell, VA.	
	Lynchburg City, VA.	
4680	Macon, GA	0.9542
	Bibb, GA.	
	Houston, GA.	
	Jones, GA.	
	Peach, GA.	
	Twiggs, GA.	
4720	Madison, WI	1.0940
	Dane, WI.	
4800	Mansfield, OH	0.9784
	Crawford, OH.	
	Richland, OH.	
4840	Mayaguez, PR	0.5514
	Anasco, PR.	
	Cabo Rojo, PR.	
	Hormigueros, PR.	
	Mayaguez, PR.	
	Sabana Grande, PR.	
	San German, PR.	
4880	McAllen-Edinburg-Mission, TX.	0.8933
	Hidalgo, TX.	
4890	Medford-Ashland, OR	1.1481
	Jackson, OR.	
4900	Melbourne-Titusville-Palm Bay, FL.	1.0419
	Brevard, FL.	
4920	Memphis, TN-AR-MS ..	0.9602
	Crittenden, AR.	
	DeSoto, MS.	
	Fayette, TN.	
	Shelby, TN.	
	Tipton, TN.	
4940	Merced, CA	1.0328
	Merced, CA.	
5000	Miami, FL	1.0545
	Dade, FL.	
5015	Middlesex-Somerset-Hunterdon, NJ.	1.2114
	Hunterdon, NJ.	
	Middlesex, NJ.	
	Somerset, NJ.	
5080	Milwaukee-Waukesha, WI.	1.0645
	Milwaukee, WI.	
	Ozaukee, WI.	
	Washington, WI.	
	Waukesha, WI.	
5120	Minneapolis-St. Paul, MN-WI.	1.1725
	Anoka, MN.	
	Carver, MN.	
	Chisago, MN.	
	Dakota, MN.	
	Hennepin, MN.	
	Isanti, MN.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Ramsey, MN.	
	Scott, MN.	
	Sherbune, MN.	
	Washington, MN.	
	Wright, MN.	
	Pierce, WI.	
	St. Croix, WI.	
5140	Missoula, MT	0.9292
	Missoula, MT.	
5160	Mobile, AL	0.8520
	Baldwin, AL.	
	Mobile, AL.	
5170	Modesto, CA	1.2017
	Stanislaus, CA.	
5190	Monmouth-Ocean, NJ	1.1677
	Monmouth, NJ.	
	Ocean, NJ.	
5200	Monroe, LA	0.8443
	Ouachita, LA.	
5240	Montgomery, AL	0.8427
	Autauga, AL.	
	Elmore, AL.	
	Montgomery, AL.	
5280	Muncie, IN	0.9353
	Delaware, IN.	
5330	Myrtle Beach, SC	0.9712
	Horry, SC.	
5345	Naples, FL	1.0434
	Collier, FL.	
5360	Nashville, TN	1.0504
	Cheatham, TN.	
	Davidson, TN.	
	Dickson, TN.	
	Robertson, TN.	
	Rutherford TN.	
	Sumner, TN.	
	Williamson, TN.	
	Wilson, TN.	
5380	Nassau-Suffolk, NY	1.4005
	Nassau, NY.	
	Suffolk, NY.	
5483	New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT.	1.3200
	Fairfield, CT.	
	New Haven, CT.	
5523	New London-Norwich, CT.	1.2397
	New London, CT.	
5560	New Orleans, LA	0.9778
	Jefferson, LA.	
	Orleans, LA.	
	Plaquemines, LA.	
	St. Bernard, LA.	
	St. Charles, LA.	
	St. James, LA.	
	St. John The Baptist, LA.	
	St. Tammany, LA.	
5600	New York, NY	1.4941
	Bronx, NY.	
	Kings, NY.	
	New York, NY.	
	Putnam, NY.	
	Queens, NY.	
	Richmond, NY.	
	Rockland, NY.	
	Westchester, NY.	
5640	Newark, NJ	1.2276

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Essex, NJ.	
	Morris, NJ.	
	Sussex, NJ.	
	Union, NJ.	
	Warren, NJ.	
5660	Newburgh, NY-PA	1.2267
	Orange, NY.	
	Pike, PA.	
5720	Norfolk-Virginia Beach-Newport News, VA-NC.	0.9186
	Currituck, NC.	
	Chesapeake City, VA.	
	Gloucester, VA.	
	Hampton City, VA.	
	James City, VA.	
	Isle of Wight, VA.	
	Mathews, VA.	
	Newport News City, VA.	
	Norfolk City, VA.	
	Poquoson City, VA.	
	Portsmouth City, VA.	
	Suffolk City, VA.	
	Virginia Beach City VA.	
	Williamsburg City, VA.	
	York, VA.	
5775	Oakland, CA	1.5903
	Alameda, CA.	
	Contra Costa, CA.	
5790	Ocala, FL	1.0368
	Marion, FL.	
5800	Odessa-Midland, TX ...	0.9941
	Ector, TX.	
	Midland, TX.	
5880	Oklahoma City, OK	0.9575
	Canadian, OK.	
	Cleveland, OK.	
	Logan, OK.	
	McClain, OK.	
	Oklahoma, OK.	
	Pottawatomie, OK.	
5910	Olympia, WA	1.1685
	Thurston, WA.	
5920	Omaha, NE-IA	1.0386
	Pottawattamie, IA.	
	Cass, NE.	
	Douglas, NE.	
	Sarpy, NE.	
	Washington, NE.	
5945	Orange County, CA	1.2120
	Orange, CA.	
5960	Orlando, FL	1.0289
	Lake, FL.	
	Orange, FL.	
	Osceola, FL.	
	Seminole, FL.	
5990	Owensboro, KY	0.8925
	Daviess, KY.	
6015	Panama City, FL	0.8742
	Bay, FL.	
6020	Parkersburg-Marietta, WV-OH.	0.8568
	Washington, OH.	
	Wood, WV.	
6080	Pensacola, FL	0.9280
	Escambia, FL.	
	Santa Rosa, FL.	
6120	Peoria-Pekin, IL	0.9309
	Peoria, IL.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Tazewell, IL.	
	Woodford, IL.	
6160	Philadelphia, PA-NJ	1.1599
	Burlington, NJ.	
	Camden, NJ.	
	Gloucester, NJ.	
	Salem, NJ.	
	Bucks, PA.	
	Chester, PA.	
	Delaware, PA.	
	Montgomery, PA.	
	Philadelphia, PA.	
6200	Phoenix-Mesa, AZ	1.0796
	Maricopa, AZ.	
	Pinal, AZ.	
6240	Pine Bluff, AR	0.8383
	Jefferson, AR.	
6280	Pittsburgh, PA	0.9487
	Allegheny, PA.	
	Beaver, PA.	
	Butler, PA.	
	Fayette, PA.	
	Washington, PA.	
	Westmoreland, PA.	
6323	Pittsfield, MA	1.0952
	Berkshire, MA.	
6340	Pocatello, ID	0.9637
	Bannock, ID.	
6360	Ponce, PR	0.5414
	Guayanilla, PR.	
	Juana Diaz, PR.	
	Penuelas, PR.	
	Ponce, PR.	
	Villalba, PR.	
	Yauco, PR.	
6403	Portland, ME	1.0604
	Cumberland, ME.	
	Sagadahoc, ME.	
	York, ME.	
6440	Portland-Vancouver, OR-WA.	1.1951
	Clackamas, OR.	
	Columbia, OR.	
	Multnomah, OR.	
	Washington, OR.	
	Yamhill, OR.	
	Clark, WA.	
6483	Providence-Warwick-Pawtucket, RI.	1.1699
	Bristol, RI.	
	Kent, RI.	
	Newport, RI.	
	Providence, RI.	
	Washington, RI.	
6520	Provo-Orem, UT	1.0633
	Utah, UT.	
6560	Pueblo, CO	0.9356
	Pueblo, CO.	
6580	Punta Gorda, FL	1.0136
	Charlotte, FL.	
6600	Racine, WI	0.9394
	Racine, WI.	
6640	Raleigh-Durham-Chapel Hill, NC.	1.0614
	Chatham, NC.	
	Durham, NC.	
	Franklin, NC.	
	Johnston, NC.	
	Orange, NC.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Wake, NC.	
6660	Rapid City, SD	0.9386
	Pennington, SD.	
6680	Reading, PA	0.9734
	Berks, PA.	
6690	Redding, CA	1.2099
	Shasta, CA.	
6720	Reno, NV	1.1385
	Washoe, NV.	
6740	Richland-Kennewick-Pasco, WA.	1.1307
	Benton, WA.	
	Franklin, WA.	
6760	Richmond-Petersburg, VA.	0.9964
	Charles City County, VA.	
	Chesterfield, VA.	
	Colonial Heights City, VA.	
	Dinwiddie, VA.	
	Goochland, VA.	
	Hanover, VA.	
	Henrico, VA.	
	Hopewell City, VA.	
	New Kent, VA.	
	Petersburg City, VA.	
	Powhatan, VA.	
	Prince George, VA.	
	Richmond City, VA.	
6780	Riverside-San Bernardino, CA.	1.2087
	Riverside, CA.	
	San Bernardino, CA.	
6800	Roanoke, VA	0.9273
	Botetourt, VA.	
	Roanoke, VA.	
	Roanoke City, VA.	
	Salem City, VA.	
6820	Rochester, MN	1.2512
	Olmsted, MN.	
6840	Rochester, NY	1.0051
	Genesee, NY.	
	Livingston, NY.	
	Monroe, NY.	
	Ontario, NY.	
	Orleans, NY.	
	Wayne, NY.	
6880	Rockford, IL	1.0302
	Boone, IL.	
	Ogle, IL.	
	Winnebago, IL.	
6895	Rocky Mount, NC	0.9673
	Edgecombe, NC	.....
	Nash, NC.	
6920	Sacramento, CA	1.2625
	El Dorado, CA.	
	Placer, CA.	
	Sacramento, CA.	
6960	Saginaw-Bay City-Midland, MI.	1.0692
	Bay, MI.	
	Midland, MI.	
	Saginaw, MI.	
6980	St. Cloud, MN	1.0132
	Benton, MN.	
	Stearns, MN.	
7000	St. Joseph, MO	1.0399
	Andrew, MO.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Buchanan, MO.	
7040	St. Louis, MO-IL	0.9628
	Franklin, MO.	
	Jefferson, MO.	
	Lincoln, MO.	
	St. Charles, Mo.	
	St. Louis, MO.	
	St. Louis City, MO.	
	Warren, MO.	
	Clinton, IL.	
	Jersey, IL.	
	Madison, IL.	
	Monroe, IL.	
	St. Clair, IL.	
7080	Salem, OR	1.1172
	Marion, OR.	
	Polk, OR.	
7120	Salinas, CA	1.5283
	Monterey, CA.	
7160	Salt Lake City-Ogden, UT.	1.0565
	Davis, UT.	
	Salt Lake, UT.	
	Weber, UT.	
7200	San Angelo, TX	0.9097
	Tom Green, TX.	
7240	San Antonio, TX	0.9454
	Bexar, TX.	
	Comal, TX.	
	Guadalupe, TX.	
	Wilson, TX.	
7320	San Diego, CA	1.1881
	San Diego, CA.	
7360	San Francisco, CA	1.5469
	Marin, CA.	
	San Francisco, CA.	
	San Mateo, CA.	
7400	San Jose, CA	1.5589
	Santa Clara, CA.	
7440	San Juan-Bayamon, PR.	0.5645
	Aguas Buenas, PR.	
	Barceloneta, PR.	
	Bayamon, PR.	
	Canovanas, PR.	
	Carolina, PR.	
	Catano, PR.	
	Ceiba, PR.	
	Comerio, PR.	
	Corozal, PR.	
	Dorado, PR.	
	Fajardo, PR.	
	Florida, PR.	
	Guaynabo, PR.	
	Humacao, PR.	
	Juncos, PR.	
	Los Piedras, PR.	
	Loiza, PR.	
	Luguillo, PR.	
	Manati, PR.	
	Morovis, PR.	
	Naguabo, PR.	
	Naranjito, PR.	
	Rio Grande, PR.	
	San Juan, PR.	
	Toa Alta, PR.	
	Toa Baja, PR.	
	Trujillo Also, PR.	
	Vega Alta, PR.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Vega Baja, PR.	
	Yabucoa, PR.	
7460	San Luis Obispo-Atascadero-Paso Robles, CA.	1.2181
	San Luis Obispo, CA.	
7480	Santa Barbara-Santa Maria-Lompoc, CA.	1.1128
	Santa Barbara, CA.	
7485	Santa Cruz-Watsonville, CA.	1.3794
	Santa Cruz, CA.	
7490	Santa Fe, NM	1.1354
	Los Alamos, NM.	
	Santa Fe, NM.	
7500	Santa Rosa, CA	1.3725
	Sonoma, CA.	
7510	Sarasota-Bradenton, FL.	1.0620
	Manatee, FL.	
	Sarasota, FL.	
7520	Savannah, GA	1.0095
	Bryan, GA.	
	Chatham, GA.	
	Effingham, GA.	
7560	Scranton—Wilkes-Barre—Hazleton, PA.	0.8966
	Columbia, PA.	
	Lackawanna, PA.	
	Luzerne, PA.	
	Wyoming, PA.	
7600	Seattle-Bellevue-Everett, WA.	1.2323
	Island, WA.	
	King, WA.	
	Snohomish, WA.	
7610	Sharon, PA	0.8261
	Mercer, PA.	
7620	Sheboygan, WI	0.9192
	Sheboygan, WI.	
7640	Sherman-Denison, TX	1.0338
	Grayson, TX.	
7680	Shreveport-Bossier City, LA.	0.9681
	Bossier, LA.	
	Caddo, LA.	
	Webster, LA.	
7720	Sioux City, IA-NE	0.9585
	Woodbury, IA.	
	Dakota, NE.	
7760	Sioux Falls, SD	0.9922
	Lincoln, SD.	
	Minnehaha, SD.	
7800	South Bend, IN	1.0467
	St. Joseph, IN.	
7840	Spokane, WA	1.1618
	Spokane, WA.	
7880	Springfield, IL	0.9533
	Menard, IL.	
	Sangamon, IL.	
7920	Springfield, MO	0.9014
	Christian, MO.	
	Greene, MO.	
	Webster, MO.	
8003	Springfield, MA	1.1237
	Hampden, MA.	
	Hampshire, MA.	
8050	State College, PA	0.9315
	Centre, PA.	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code number	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
8080	Steubenville-Weirton, OH-WV.	0.8951
	Jefferson, OH.	
	Brooke, WV.	
	Hancock, WV.	
8120	Stockton-Lodi, CA	1.1089
	San Joaquin, CA.	
8140	Sumter, SC	0.8786
	Sumter, SC.	
8160	Syracuse, NY	1.0031
	Cayuga, NY.	
	Madison, NY.	
	Onondaga, NY.	
	Oswego, NY.	
8200	Tacoma, WA	1.1848
	Pierce, WA.	
8240	Tallahassee, FL	0.9081
	Gadsden, FL.	
	Leon, FL.	
8280	Tampa-St. Petersburg-Clearwater, FL.	0.9702
	Hernando, FL.	
	Hillsborough, FL.	
	Pasco, FL.	
	Pinellas, FL.	
8320	Terre Haute, IN	0.8873
	Clay, IN.	
	Vermillion, IN.	
	Vigo, IN.	
8360	Texarkana, AR-Texarkana, TX.	0.8686
	Miller, AR.	
	Bowie, TX.	
8400	Toledo, OH	0.9998
	Fulton, OH.	
	Lucas, OH.	
	Wood, OH.	
8440	Topeka, KS	0.9707
	Shawnee, KS.	
8480	Trenton, NJ	1.1209
	Mercer, NJ.	
8520	Tucson, AZ	0.9572
	Pima, AZ.	
8560	Tulsa, OK	0.9790
	Creek, OK.	
	Osage, OK.	
	Rogers, OK.	
	Tulsa, OK.	
	Wagoner, OK.	
8600	Tuscaloosa, AL	0.8753
	Tuscaloosa, AL.	
8640	Tyler, TX	1.0023
	Smith, TX.	
8680	Utica-Rome, NY	0.8956
	Herkimer, NY.	
	Oneida, NY.	
8720	Vallejo-Fairfield-Napa, CA.	1.4257
	Napa, CA.	
	Solano, CA.	
8735	Ventura, CA	1.1792
	Ventura, CA.	
8750	Victoria, TX	0.8723
	Victoria, TX.	
8760	Vineland-Millville-Bridgeton, NJ.	1.1090
	Cumberland, NJ.	
8780	Visalia-Tulare-Porterville, CA.	1.0439
	Tulare, CA.	
8800	Waco, TX	0.8946
	McLennan, TX.	
8840	Washington, DC-MD-VA-WV.	1.1622
	District of Columbia, DC.	
	Calvert, MD.	
	Charles, MD.	
	Frederick, MD.	
	Montgomery, MD.	
	Prince Georges, MD.	
	Alexandria City, VA.	
	Arlington, VA.	
	Clarke, VA.	
	Culpeper, VA.	
	Fairfax, VA.	
	Fairfax City, VA.	
	Falls Church City, VA.	
	Fauquier, VA.	
	Fredericksburg City, VA.	
	King George, VA.	
	Loudoun, VA.	
	Manassas City, VA.	
	Manassas Park City, VA.	
	Prince William, VA.	
	Spotsylvania, VA.	
	Stafford, VA.	
	Warren, VA.	
	Berkeley, WV.	
	Jefferson, WV.	
8920	Waterloo-Cedar Falls, IA.	0.8917
	Black Hawk, IA.	
8940	Wausau, WI	1.0330
	Marathon, WI.	
8960	West Palm Beach-Boca Raton, FL.	1.0443
	Palm Beach, FL.	
9000	Wheeling, WV-OH	0.8000
	Belmont, OH.	
	Marshall, WV.	
	Ohio, WV.	
9040	Wichita, KS	0.9846
	Butler, KS.	
	Harvey, KS.	
	Sedgwick, KS.	
9080	Wichita Falls, TX	0.8890
	Archer, TX.	
	Wichita, TX.	
9140	Williamsport, PA	0.8695
	Lycoming, PA.	
9160	Wilmington-Newark, DE-MD.	1.1598
	New Castle, DE.	
	Cecil, MD.	
9200	Wilmington, NC	1.0192
	Brunswick, NC.	
	New Hanover, NC.	
9260	Yakima, WA	1.1055
	Yakima, WA.	
9270	Yolo, CA	0.9810
	Yolo, CA.	
9280	York, PA	0.9719
	York, PA.	
9320	Youngstown-Warren, OH.	0.9820
	Columbiana, OH.	
	Mahoning, OH.	
	Trumbull, OH.	
9340	Yuba City, CA	1.0867
	Sutter, CA.	
	Yuba, CA.	
9360	Yuma, AZ	0.9480
	Yuma, AZ.	

[1] This column lists each MSA area name and each county or county equivalent, in the MSA area. Counties not listed in this Table are considered to be rural areas. Wage Index values for these areas are found in Table B.

[2] Wage index values are based on FY 2000 hospital cost report data before reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget-neutrality adjustment calculated by multiplying the hospital wage index value for a given area by a budget-neutrality factor of 1.065819. Wage index values below 0.8 are adjusted to be the greater of a 15-percent increase, subject to a maximum wage index value of 0.8, or a budget-neutrality adjustment calculated by multiplying the hospital wage index value for a given area by the budget-neutrality factor. We have completed all of these adjustments and included them in the wage index values reflected in this table.

TABLE B.—WAGE INDEX FOR RURAL AREAS

MSA code number	Nonurban area	Wage index [3]
9901	Alabama	0.8000
9902	Alaska	1.2668
9903	Arizona	0.9880
9904	Arkansas	0.8243
9905	California	1.0687
9906	Colorado	0.9942
9907	Connecticut	1.2985
9908	Delaware	1.0186
9910	Florida	0.9454
9911	Georgia	0.8920
9912	Hawaii	1.0613
9913	Idaho	0.9565
9914	Illinois	0.8797
9915	Indiana	0.9405
9916	Iowa	0.8970
9917	Kansas	0.8563
9918	Kentucky	0.8498
9919	Louisiana	0.8000
9920	Maine	0.9392
9921	Maryland	0.9726
9922	Massachusetts	1.1119
9923	Michigan	0.9469
9924	Minnesota	0.9944
9925	Mississippi	0.8290
9926	Missouri	0.8411
9927	Montana	0.9379
9928	Nebraska	0.9403
9929	Nevada	1.0451
9930	New Hampshire	1.0690
9931	New Jersey [4]	.....
9932	New Mexico	0.8814
9933	New York	0.9087
9934	North Carolina	0.9015

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

MSA code number	Nonurban area	Wage index [3]
9935	North Dakota	0.8290
9936	Ohio	0.9401
9937	Oklahoma	0.8033
9938	Oregon	1.0652
9939	Pennsylvania	0.8929
9940	Puerto Rico	0.4621
9941	Rhode Island [4]	.....
9942	South Carolina	0.9057
9943	South Dakota	0.8734
9944	Tennessee	0.8405
9945	Texas	0.8292
9946	Utah	0.9565
9947	Vermont	0.9920
9948	Virgin Islands	0.8000
9949	Virginia	0.9057
9950	Washington	1.1072
9951	West Virginia	0.8546
9952	Wisconsin	0.9916
9953	Wyoming	0.9710
9965	Guam	1.0244

[3] Wage index values are based on FY 2000 hospital cost report data before reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget-neutrality adjustment calculated by multiplying the hospital wage index value for a given area by a budget-neutrality factor of 1.065819. Wage index values below 0.8 are adjusted to be the greater of a 15-percent increase, subject to a maximum wage index value of 0.8, or a budget-neutrality adjustment calculated by multiplying the hospital wage index value for a given area by the budget-neutrality factor. We have completed all of these adjustments and included them in the wage index values reflected in this table.

[4] All counties within the State are classified as urban.

III. Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. section (553(b)(B)), we may waive notice and comment rulemaking procedures if we find good cause to do so (that is, notice and comment procedures are impracticable, unnecessary, or contrary to the public interest) and the agency incorporates a statement of the finding and the reasons for waiver in the notice issued. We are waiving notice and comment rulemaking before the provisions of this notice take effect.

We find it unnecessary to undertake notice and comment rulemaking because the methodologies used to determine the hospice wage index have been previously subjected to public comments, and this notice merely reflects the application of those previously established methodologies. In this notice, we are not changing the methodologies, but merely performing the ministerial function of applying methodologies previously subject to notice and public comment. Therefore, we believe it is unnecessary to engage in notice and comment rulemaking and, for good cause, we waive notice and comment procedures.

We also believe that good cause exists to waive notice and comment rulemaking because it is in the public interest to make this notice effective on October 1, 2004. The statute in 1814(i)(1)(C)(ii)(VII) of the Act requires annual updates to the hospice payment rates and wage indices. In addition, the Federal Regulations at 42 CFR 418.306(b)(2) and (c) require annual updates to hospice wage indices and require that such updates be effective for the FY, beginning on October 1. We do not have sufficient time to engage in notice and comment rulemaking before that date. Moreover, if we do not make this notice effective on the implementation date of October 1, 2004, the hospice agencies would be required to continue to use the previous 2004 FY wage index for the 2005 payment rates.

Therefore, for the reasons stated above, we find there is good cause to waive notice and comment procedures of the Administrative Procedure Act.

IV. Regulatory Impact Analysis

A. Overall Impact

We have examined the impacts of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132. In this notice, we identified the impact on hospices as a result of updating the hospice wage index. The methodology for computing the wage index for FY 2005 was determined through a negotiated rulemaking committee and implemented in the August 8, 1997 final rule (62 FR 42860). This notice only updates the hospice wage index in accordance with that methodology. We believe these changes to be insignificant. As Table C below indicates, we estimate that the total hospice payments will increase from last year by 1.0 percent, or $60,113,000. We have compared estimated payments using the FY 1983 hospice wage index to estimated payments using the FY 2005 wage index and determined the current hospice wage index to be budget neutral. Budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the FY 2005 Wage Index will equal estimated aggregate payments that would have been made for the same services if the 1983 wage index had remained in effect. Budget neutrality to 1983 does not imply that estimated payments will not increase since the budget neutrality applies only to the wage index portion and not the total payment rate, which accommodates inflation.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if 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 major rules with economically significant effects ($100 million or more in any 1 year). We have determined that this notice is not an economically significant rule under this Executive Order.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year (for details, see the Small Business Administration's regulation at 65 FR 69432, that sets forth size standards for health care industries). For purposes of the RFA, most hospices are small entities. As indicated in Table C below, there are 2,385 hospices. Approximately 70 percent of Medicare certified hospices are identified as voluntary, government, or other agencies, and, therefore, are considered small entities. Because the National Hospice and Palliative Care Organization estimates that approximately 79 percent of hospice patients are Medicare beneficiaries, we have not considered other sources of revenue in this analysis.

As discussed below, rural hospices will receive an increase in payment that is greater than urban hospices. Overall rural hospices will receive an increase of 2.9 percent and urban hospices will receive an increase of 0.7 percent. All hospices, both urban and rural, will receive a 1.0 percent increase in payment representing an increase of $60,113,000. Urban hospices in East North Central and Puerto Rico regions will experience a decrease of 0.2 percent and 0.3 percent respectively. New England and Puerto Rico rural regions will also experience a decrease of 0.5 and 4.1 percent respectively. Of the urban hospices, the West South Central

and Mountain regions will experience the greatest increase of 1.7 percent and 1.8 percent, respectively. The remaining urban regions will experience an increase in payment ranging from 0.3 percent in the Middle Atlantic region to a 0.9 percent increase in New England. Of the rural hospices, the East South Central and West North Central regions will experience the greatest increase of all hospices with 6.5 percent and 4.0 percent, respectively. The remaining rural hospices, with the exception of New England and Puerto Rico, will experience an increase in payment ranging from 1.0 percent for the Pacific region to 2.3 percent in the South Atlantic region. Puerto Rico will experience decreased payment in both its urban and rural areas. Overall, Puerto Rico rural hospices will receive the largest decrease of all hospices with a decrease of 4.1 percent. Most regions, however, will experience an increase in payment in both urban and rural regions. Therefore, based upon analysis of the wage index changes for FY 2005, the urban and rural Puerto Rico, urban East North Central and rural New England hospices will be most negatively impacted. The remaining urban and rural regions will be positively impacted. The payment decreases in certain areas indicate that this notice will have an impact on a small number of small entities. However, nationwide, hospices will receive an overall increase in estimated payments. We estimate that total hospice payments will increase by 1.0 percent, or $60,113,000. Rural hospices, with the exception of Puerto Rico and New England regions, will receive the largest increase in payments for FY 2005. We estimate that rural hospice payments overall will increase by $23,336,000. We believe the anomaly of Puerto Rico rural region, with the greatest decrease overall in payment, the rural East South Central region increase of 6.5 percent, and the rural West North Central region increase of 4.0 percent are attributable to hospital wages in these geographic areas.

Under the Medicare hospice benefit, hospices can provide four different levels of care days. The majority of the days provided by a hospice are routine home care days. Therefore, the number of routine home care days can be used as a proxy for the size of the hospice, that is, the more days of care provided, the larger the hospice. Using routine home care days as a proxy for size, our analysis indicates that the impact of the wage index update on small hospices (those that provide up to 1,754 days of routine home care) will experience a 10.2 percent increase. Rural Puerto Rico with 4 hospices and 150,000 routine care days will experience a decrease of 4.1 percent while rural East South Central with 111 hospices and 1,541,000 routine home care days, which represents the highest number of routine home days, will have an increase of 6.5 percent. Rural South Atlantic and East North Central, each with 139 hospices and 1,390 and 924,000 routine home care days, respectively, will experience an increase of 2.3 percent and 1.4 percent, respectively. Rural New England region with 27 hospices and the lowest number of routine home care days of 111,000 will experience a 0.5 percent decrease.

Furthermore, the wage index methodology was previously determined by consensus, through a negotiated rulemaking committee that included representatives of national hospice associations; rural, urban, large and small hospices; multi-site hospices; and consumer groups. Based on all of the options considered, the committee agreed on the methodology described in the committee statement, and it was adopted into regulation in the August 8, 1997 final rule. The committee also agreed that this was favorable for the hospice community, as well as for beneficiaries. In developing the process for updating the wage index in the 1997 final rule, we fully considered the impact of this methodology on small entities and attempted to mitigate any potential negative effects.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside an MSA and has fewer than 100 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $110 million or more. This notice has no substantial effect on State, local or tribal governments or on the private sector. We have determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this notice under the threshold criteria of Executive Order 13132, Federalism, and have determined that this notice will not have an impact on the rights, roles, and responsibilities of State, local, or tribal governments.

B. Anticipated Effects

We have compared estimated payments using the FY 1983 hospice wage index to estimated payments using the FY 2005 wage index and determined the current hospice wage index to be budget neutral. This impact analysis compares hospice payments using the FY 2004 hospice wage index to the estimated payments using the FY 2005 wage index. The data used in developing the quantitative analysis for this notice were obtained from the March 2004 update of the national claims history file of all bills submitted during FY 2003. We deleted bills from hospices that have since closed.

Table C below demonstrates the results of our analysis. In column 2 of Table C, we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Column 3 of Table C indicates payments that were made using the FY 2004 wage index. Column 4 of Table C is based on FY 2004 claims (for hospices in business during that time period) and estimates payments to be made to hospices using the FY 2005 wage index. The final column, which compares columns 3 and 4, shows the percent change in estimated hospice payments made based on the category of the hospice.

Table C categorizes hospices by various geographic and provider characteristics. The first row displays the results of the impact analysis for all Medicare certified hospices. The second and third rows of the table categorize hospices according to their geographic location (urban and rural). Our analysis indicted that there are 1,469 hospices located in urban areas and 916 hospices located in rural areas. The next two groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The sixth grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate. Therefore, we based the size of each individual hospice's program on the number of routine home care days

provided in 2003. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

The results of our analysis shows that the majority of hospices are in urban areas and provide the vast majority of routine home care days. However, rural hospices will receive a larger percent increase in payment of 2.9 percent in contrast to 0.7 percent for urban hospices.

The greatest increases in payment are for rural East South Central and West North Central regions with a 6.5 percent and 4.0 percent increase, respectively. Four regions will experience a decrease in payment with the greatest decrease in payment for rural Puerto Rico with a 4.1 percent decrease followed by rural New England, urban Puerto Rico, and urban East North Central regions with 0.5 percent, 0.3 percent, and 0.2 percent decreases, respectively. The remainder of the urban areas varies from an increase of 0.3 percent in the Middle Atlantic region to an increase of 1.8 percent in the Mountain region.

The breakdown by size indicates an increase of 10.2 percent in payment for hospices with routine home care days under 1,754 followed by a 4.5 percent increase in moderate size hospices with 1,754 to 4,373 days and an increase of 0.8 percent for large size hospitals.

Proprietary-owned hospices will experience the highest increase of 1.4 percent while voluntary owned hospices with the largest number of routine home care days will receive 0.8 percent increase in payment.

Freestanding agency based hospices with the highest number of routine home care days and with the largest number of hospice agencies will have the highest increase of a 1.1 percent payment increase. In contrast, skilled nursing facility based hospices will have an increase of 0.3 percent, which represents the lowest number of routine home care days.

TABLE C.—IMPACT OF HOSPICE WAGE INDEX CHANGE

	Number of hospices (1)	Number of routine home care days in thousands (2)	Payments using FY 2004 wage index in thousands (3)	Estimated payments using FY 2005 wage index in thousands (4)	Percent change in hospice payments (5)
(BY GEOGRAPHIC LOCATION):					
ALL HOSPICES	2,385	42,728	5,873,005	5,933,118	1.0
URBAN HOSPICES	1,469	35,552	5,072,557	5,109,334	0.7
RURAL HOSPICES	916	7,177	800,448	823,784	2.9
BY REGION—URBAN:					
NEW ENGLAND	91	1,049	171,309	172,885	0.9
MIDDLE ATLANTIC	172	3,562	532,324	533,710	0.3
SOUTH ATLANTIC	205	7,421	1,167,357	1,175,429	0.7
EAST NORTH CENTRAL	240	5,231	751,343	750,026	−0.2
EAST SOUTH CENTRAL	107	2,638	335,046	337,478	0.7
WEST NORTH CENTRAL	110	2,446	305,713	307,835	0.7
WEST SOUTH CENTRAL	223	5,718	716,376	728,268	1.7
MOUNTAIN	104	2,684	399,776	406,833	1.8
PACIFIC	187	4,376	658,216	661,869	0.6
PUERTO RICO	30	427	35,098	35,000	−0.3
BY REGION—RURAL:					
NEW ENGLAND	27	111	14,399	14,334	−0.5
MIDDLE ATLANTIC	36	230	27,634	28,053	1.5
SOUTH ATLANTIC	139	1,390	161,998	165,728	2.3
EAST NORTH CENTRAL	139	924	106,674	108,215	1.4
EAST SOUTH CENTRAL	111	1,541	161,972	172,497	6.5
WEST NORTH CENTRAL	180	859	95,425	99,252	4.0
WEST SOUTH CENTRAL	120	1,088	113,083	115,326	2.0
MOUNTAIN	102	530	62,304	63,432	1.8
PACIFIC	58	353	45,320	45,780	1.0
PUERTO RICO	4	150	11,640	11,167	−4.1
ROUTINE HOME CARE DAYS:					
0–1,754 DAYS	343	301	33,025	36,401	10.2
1,754–4,373 DAYS	400	1,236	144,480	150,910	4.5
4,373–9,681 DAYS	517	3,504	431,211	436,948	1.3
9,681 + DAYS	1,122	35,702	5,033,559	5,075,608	0.8
TYPE OF OWNERSHIP:					
VOLUNTARY	1,319	23,772	3,320,004	3,345,602	0.8
PROPRIETARY	844	17,972	2,427,181	2,460,362	1.4
GOVERNMENT	187	879	112,468	113,682	1.1
OTHER	35	106	13,351	13,473	0.9
HOSPICE BASE:					
FREESTANDING	1,186	28,948	4,050,201	4,051,763	1.1
HOME HEALTH AGENCY	634	8,075	1,105,167	1,113,613	0.8
HOSPITAL	549	5,524	733,743	739,760	0.8
SKILLED NURSING FACILITY	16	182	28,893	28,983	0.3

C. Conclusion

Our impact analysis compared hospice payments by using the FY 2004 wage index to the estimated payments using the FY 2005 wage index. Through the analysis, we estimate that total hospice payments will increase from last year by 1.0 percent or by $60,113,000. Additionally, we compared estimated payments using the FY 1983 hospice wage index to estimated payments using the FY 2005 wage index and determined the current hospice wage index to be budget neutral, as required by the negotiated rulemaking committee. We have determined that this rule is not an economically significant rule under Executive Order 12866. Although we believe that this rule will not have a significant economic impact on a substantial number of small entities, we took any negative effects into consideration during the negotiated rulemaking process. We have determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals. Finally, this notice will not have a consequential effect on State, local, or tribal governments.

OMB Review

In accordance with the provisions of Executive Order 12866, the Office of Management and Budget reviewed this notice.

Authority: Section 1814(i) of the Social Security Act (42 U.S.C. 1395f (i)(1))

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated:

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Dated:

Tommy G. Thompson,

Secretary.

[FR Doc. 04–19697 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5025–CN]

RIN 0938–ZA51

Medicare Program; Medicare Replacement Drug Demonstration; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice; correction.

SUMMARY: This document corrects technical and typographical errors that appeared in the notice published in the **Federal Register** on June 29, 2004 entitled ''Medicare Replacement Drug Demonstration (69 FR 38898).'' That notice announced the implementation of a demonstration that would pay through December 31, 2005 under Medicare Part B for drugs and biologicals that are prescribed as replacements for existing covered Medicare drugs and biologicals described in section 1861(s)(2)(A) or 1861(s)(2)(Q), or both, of title XVIII of the Social Security Act.

DATES: Effective June 29, 2004.

FOR FURTHER INFORMATION CONTACT: Jody Blatt, (410) 786–6921.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 04–14673 of June 29, 2004 (69 FR 38898), there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction notice are effective as if they were included in the document published June 29, 2004. Accordingly, the corrections are effective June 29, 2004.

II. Correction of Errors

In FR Doc. 04–14673 of June 29, 2004 (69 FR 38898), make the following corrections:

1. On page 38899, in the table, in the first column, the term entitled ''Chronic Myelogenous Lymphoma'' is corrected to read ''Chronic Myelogenous Leukemia.''

2. On page 38899, in the table, in the first column, the term entitled ''Anaplastic astrocytoma'' is removed. Temodar, which treats anaplastic astrocytoma, is already covered under Medicare Part B and will not be covered under this demonstration.

3. On page 38899, in the table, in the second column, the drug entitled ''Pegalated interferon alfa–2a (PEG–Intron)'' is corrected to read ''Pegylated interferon alfa–2b (PEG–Intron).''

4. On page 38899, in the table, in the second column the drug entitled ''Temozolomide (Temodar)'' is removed. Temodar is already covered under Medicare Part B and will not be covered under this demonstration.

5. On page 38900, in the first column, in the fourth paragraph, in the seventh and eighth lines, the words ''Advance PCS, a Caremark Company (Caremark),'' are corrected to read ''Caremark.'' The correct reference to this company is Caremark, not Advance PCS, a Caremark Company.

6. On page 38902, in the third column, in the first through eighth lines, remove the sentence ''The rules for low-income assistance, including coverage levels and determination of eligibility, have been established to be consistent with what will be in effect in 2006 when the Medicare Part D drug benefit is implemented.'' Rules established for this demonstration apply only to this demonstration and do not necessarily reflect how the Medicare Part D benefit will be implemented.

7. On page 38903, in Table 1A, the following sentence is added to the footnote, ''Under the different low income benefit levels, subsidies by Medicare as well as out-of-pocket payments by the beneficiary count towards the out-of-pocket catastrophic limit.''

8. On page 38904, in Table 1B, in the second column, under the heading entitled ''Benefit Level 1 (Standard),'' in the third row, the amount ''$1,350'' is corrected to read ''$2,850.''

9. On page 38904, in Table 1B, the following sentence is added to the footnote, ''Under the different low income benefit levels, subsidies by Medicare as well as out-of-pocket payments by the beneficiary count towards the out-of-pocket catastrophic limit.''

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice take effect. We can waive this procedure, however, if we find good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the notice.

Therefore, we find good cause to waive notice and comment procedures.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 4, 2004.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 04–18643 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3136–N]

Medicare Program; Meeting of the Medicare Coverage Advisory Committee—September 28, 2004

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a public meeting of the Medicare Coverage Advisory Committee (MCAC). The Committee provides advice and recommendations about whether scientific evidence is adequate to determine whether certain medical items and services are reasonable and necessary under the Medicare statute. This meeting concerns the use of portable multichannel home sleep testing devices as an alternative to facility-based polysomnography in the evaluation of obstructive sleep apnea. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

DATES: The public meeting will be held on Tuesday, September 28, 2004 from 7:30 a.m. until 3:30 p.m. e.s.t.

Deadline for Presentations and Comments: Written comments must be received by September 10, 2004, 5 p.m., e.s.t.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by September 3, 2004 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: The meeting will be held at the Holiday Inn Inner Harbor, 301 West Lombard Street, Baltimore, MD 21201.

Presentations and Comments: Interested persons may present data, information, or views orally or in writing on issues pending before the Committee. Please submit written comments to Janet A. Anderson, by e-mail at *JAnderson@cms.hhs.gov* or by mail to the Executive Secretary, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, MailStop C1–09–06, Baltimore, MD 21244.

Website: You may access up-to-date information on this meeting at *http://www.cms.hhs.gov/mcac/default.asp#meetings*.

Hotline: You may access up-to-date information on this meeting on the CMS Advisory Committee Information Hotline, 1–877–449–5659 (toll free) or in the Baltimore area (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Janet A. Anderson, Executive Secretary, by telephone at (410) 786–2700 or by e-mail at *JAnderson@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) to describe the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces a public meeting of the Committee.

Meeting Topic: The Committee will discuss the evidence, hear presentations and public comment, and make recommendations regarding the use of portable multichannel home sleep testing devices as an alternative to facility-based polysomnography in the evaluation of obstructive sleep apnea (OSA). Current national coverage guidelines specify that only polysomnograpy done in a facility-based sleep study laboratory may be used to identify patients with OSA requiring Continuous Positive Airway Pressure (CPAP) therapy. Polysomnograpy is the continuous and simultaneous monitoring and recording of various physiological and pathophysiological parameters of sleep. It includes sleep staging that is defined to include a 1 to 4 lead electroencephalogram (EEG), and electro-oculogram (EOG), and a submental electromyogram (EMG). Determination of respiratory effort, airflow, oxygen saturation, detection of cardiac abnormalities via electrocardiogram (ECG), body position, and limb movements are also essential features of the test. Portable monitoring devices encompass a wide range of technologies some of which are capable of obtaining the same measurement parameters as standard polysomnography. However, devices also exist that measure only subsets of this information. For example, certain devices measure cardiopulmonary variables, such as respiratory effort, airflow, oxygen saturation, and heart rate or ECG, without the ability to determine sleep staging. Another category of devices measures only one or two variables, such as oxygen saturation and heart rate or ECG. Background information about this topic, including panel materials, is available on the Internet at *http://www.cms.hhs.gov/coverage/*.

Procedure: This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make formal presentations, you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section and submit the following by the *Deadline for Presentations and Comments* date listed in the **DATES** section of this notice: a brief statement of the general nature of the evidence or arguments you wish to present, and the names and addresses of proposed participants. A written copy of your presentation must be provided to each Committee member before offering your public comments. Your presentation must address the questions asked by us to the Committee. If the specific questions are not addressed, your presentation will not be accepted. The questions will be available on our website at *http://www.cms.hhs.gov/mcac/default.asp#meetings*. We request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15 minute unscheduled open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 27, 2004.

Sean R. Tunis,

Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 04–18632 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1279–N2]

Medicare Program; Public Meeting of the Program Advisory and Oversight Committee (PAOC) for Quality Standards and Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, location, and registration requirements for the first public meeting of the Program Advisory and Oversight Committee (PAOC) for the competitive acquisition of certain durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). The October 6, 2004 meeting will provide a forum for the PAOC to consider issues related to competitive bidding for DMEPOS items and to furnish advice to the Secretary regarding these issues. Requirements for the PAOC are specified by section 302 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173). The public is invited to attend this meeting to observe the committee's discussion. While non-committee members attending the meeting as interested observers will not have the opportunity to make oral comments or presentations, written comments will be accepted.

DATES: *The Meeting:* The PAOC meeting will take place on Wednesday, October 6, 2004, 9 a.m. through 5 p.m.

ADDRESSES: The PAOC meeting will be held in the Centers for Medicare & Medicaid Services (CMS) Auditorium. Our address is 7500 Security Boulevard, Baltimore, MD 21244.

FOR FURTHER INFORMATION CONTACT: Sean Dalenberg, (410) 786–0300.

SUPPLEMENTARY INFORMATION:

I. Regulatory Background

On December 8, 2003, the President signed the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173). Section 302 of MMA requires the Secretary of the Department of Health and Human Services (the Secretary) to replace the current DME payment methodology for certain items with a competitive acquisition process to improve the effectiveness of Medicare's methodology for setting DME payment amounts. The new bidding process will establish payment for DME, and drugs and supplies used in conjunction with DME, but excluding inhalation drugs and class III devices under the Food, Drug and Cosmetic Act. In addition, this new bidding process will establish payment for enteral nutrition and off-the-shelf orthotics. Section 302 of MMA also mandates implementation of an accreditation program and development of quality standards for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). The statute requires the Secretary to establish the PAOC. The PAOC is responsible for providing advice on the development and implementation of these provisions.

Specifically, section 302 of the MMA states that the PAOC shall provide advice on the following:

- Implementation of the Competitive Acquisition Program.
- Establishment of financial standards for suppliers under the program that take into account the needs of small providers.
- Establishment of data collection requirements for the efficient management of the program.
- Development of proposals for efficient interaction among manufacturers, providers of services, suppliers, and individuals.
- Establishment of the quality standards.

The PAOC may also perform additional functions specified by the Secretary. As specified in section 302(b)(1) of MMA, which amends section 1847 of the Act by adding paragraph (c)(4), to specify that the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) are not applicable for PAOC meetings.

On June 2, 2004, we published a notice in the **Federal Register** (69 FR 31125) entitled ''Request for Nominations for the Program Advisory Oversight Committee for the Competitive Acquisition of Durable Medical Equipment and Other Items'' requesting nominations from the public for committee members. We are currently in the process of reviewing and processing these nominations. The names of those selected as PAOC members will be posted at *http://www.cms.hhs.gov/suppliers/dmepos/compbid.* This Web site will also include the agenda for the first PAOC meeting. Future dates and locations for PAOC meetings and agendas will be made available at the above listed Web site address. The public may also register on the list serve at the Web site for future PAOC notifications.

II. Registration

PAOC Registration Procedures: Members of the public interested in attending the October 6, 2004 meeting must register in advance by either mail or e-mail as indicated below.

Each registrant must provide the following information: Name; company name and address (if applicable); telephone and fax numbers; e-mail address (if available); and any special needs requirements. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Special Accommodations: Persons attending the PAOC public meeting with hearing or visual impairments, special requirements, or a condition that requires special assistance or accommodation, must provide this information upon registering for the meeting.

A CMS staff member will confirm your registration by mail, e-mail or fax. We recommend that you retain a copy of this confirmation of pre-registration to facilitate your entry into the building.

Registration By Mail: We must receive your registration by mail no later than 5 p.m. on September 22, 2004 in order for you to obtain access to the building. Please address mailed registrations to Sean Dalenberg, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C5–08–27, Baltimore, MD 21244.

Registration By E-mail: If you wish to register electronically, please submit your request to the following e-mail address: *sdalenberg@cms.hhs.gov.* We must receive your registration no later than 5 p.m., September 22, 2004.

For Additional Information: Please contact our recorded Hotline at 410–786–9379.

III. Submission of Comments

Written comments from the public addressing topics discussed at the meeting must be received by October 13, 2004. Please send your written comments to Sean Dalenberg, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C5–08–27, Baltimore, MD 21244. A summary of the public meeting will be posted at *http://www.cms.hhs.gov/suppliers/dmepos/compbid* after the meeting.

IV. General Information

This PAOC public meeting will be held in a Federal government building; therefore, Federal security measures are in effect. In planning your arrival, we recommend allowing additional time to clear security. In order to gain access to the building and grounds, all attendees

must be prepared to provide a government-issued photo identification. Access may be denied to persons without proper identification. Security measures will also include inspection of vehicles, inside and out, at the entrance to the grounds. In addition, all persons entering the building must pass through a metal detector. All items brought to CMS, including personal items, computers, electronics, and cell phones are subject to physical inspection.

Authority: Section 302 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 17, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 04–19259 Filed 8–26–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0508]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Focus Groups as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Focus Groups as Used by the Food and Drug Administration'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 9, 2004 (69 FR 11019), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0497. The approval expires on February 28, 2006. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: August 20, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–19599 Filed 8–26–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Free Clinic—FTCA Deeming Application (NEW.)

Congress legislated FTCA medical malpractice protection for free clinic volunteer health professionals through Section 194 of the Health Insurance Portability and Accountability Act (HIPAA) amending Section 224 of the Public Health Service Act. Individuals eligible to participate in this program are health care practitioners volunteering at free clinics who meet specific eligibility requirements. If an individual meets all the requirements of this program they can be ''deemed'' to be a Federal employee. This deemed status is specifically to provide immunity from medical malpractice lawsuits as a result of the performance of medical, surgical, dental, or related activities within the scope of the volunteer's work at the free clinic.

The sponsoring free clinic entity must submit an application to the Health Resources and Services Administration (HRSA). This application will require information about the sponsoring free clinic's credentialing system, risk management practices, and quality assurance system in order to ensure the Government is not exposed to undue liability resulting from the medical malpractice coverage of non-qualified health care professionals. Attached to the application will be a listing of specific health care providers for whom the sponsoring free clinic is requesting deemed status.

Estimates of annualized reporting burden are as follows:

Type of form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
FTCA Deeming Application	600	1	600	2.5	1,500
Total	600		600		1,500

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 24, 2004.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04–19681 Filed 8–25–04; 11:32 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker local permits are canceled without prejudice.

Name	Permit #	Issuing port
John A. Steer, Inc.,	804	New York.
Quantum Logistics, Inc.,	059	Great Falls.
Quantum Logistics, Inc.,	041–03–MQ4	Cleveland.
V. Monte Customs Broker, Inc.,	864	New York.
Sea Air Cargo Forwarder of NJ, Inc.,	717	New York.
Dachser Transport of America, Inc.,	53–03–U52	Houston.

Dated: August 19, 2004.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 04–19578 Filed 8–26–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are canceled without prejudice.

Name	License No.	Issuing port
John A. Steer, Inc	11397	New York.
Quantum Logistics, Inc	20326	Great Falls.
V. Monte Custom Broker, Inc	10032	New York.
Sea Air Cargo Forwarder of NJ, Inc	14214	New York.
George E. Roberts	01856	New York.
World Commerce Services, Inc	12649	Los Angeles.

Dated: August 19, 2004.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 04–19579 Filed 8–26–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker National Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker national permits are canceled without prejudice.

Name	Permit #	Issuing port
Quantum Logistics, Inc.,	99–00604	Headquarters.
Harry Katsaros	99–00176	Headquarters.
Christopher A. LaVenture	99–00516	Headquarters.

Dated: August 19, 2004.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 04–19580 Filed 8–26–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Interpretive Rule Concerning Classification of Baseball-Style Caps With Ornamental Braid

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: Proposed interpretive rule; solicitation of comments.

SUMMARY: This document concerns the proper classification under the Harmonized Tariff Schedule of the United States (HTSUS) of baseball-style caps featuring ornamental braid located between peak and crown. The specific issue presented is how wide must ornamental braid be on a baseball-style cap to be classified in the HTSUS as either ''wholly or in part of braid'' rather than ''not in part of braid.'' In an effort to achieve uniformity in the classification of this commodity, Customs and Border Protection (CBP) is proposing that ornamental braid on a baseball-style cap, located between peak and crown, in a width of ⅛ of an inch or greater will render the cap classifiable as ''wholly or in part of braid.'' Conversely, it is proposed that such braid in a width of less than ⅛ of an inch will result in a cap being classifiable as ''not in part of braid.'' CBP is soliciting public comment as to the appropriateness of the proposed threshold width.

DATES: Comments must be received on or before October 26, 2004.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to U.S. Customs and Border Protection, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Teresa Frazier, U.S. Customs and Border Protection, Office of Regulations & Rulings, Textiles Branch, (202) 572–8821.

SUPPLEMENTARY INFORMATION:

Background

Baseball-style caps are classifiable in heading 6505 of the Harmonized Tariff Schedule of the United States (HTSUS) which provides for, in pertinent part, ''hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; * * *.'' Within heading 6505, HTSUS, two subheadings differentiate between hats and other headgear that are ''wholly or in part of braid'' and those that are ''not in part of braid.'' *See* HTSUS subheadings 6505.90.50 and 6505.90.70 which provide for, in pertinent part, hats and other headgear ''wholly or in part of braid'', and HTSUS subheadings 6505.90.60 and 6505.90.80 which provide for hats and other headgear which are ''not in part of braid.'' In this regard, it is noted that hats and other headgear that are classifiable as ''not in part of braid'' carry a higher rate of duty than those that are classifiable as ''wholly or in part of braid.''

In cases where baseball-style caps feature ornamental braid located between the peak and crown, the determinative issue is whether the braid impacts classification at the subheading level so as to render the cap classifiable as either ''in part of braid'' or ''not in part of braid.'' The 2003 HTSUS defines the term ''in part of'' in General Note 22. General Note 22(e)(ii), HTSUS, provides that ''in part of'' or ''containing'' means that the goods contain a significant quantity of the named material and that ''with regard to the application of the quantitative concepts specified above, it is intended that the *de minimis* rule apply.''

The *de minimis* rule is applicable in customs practice principally in determining whether the presence of some ingredient in an imported commodity affects its classification. *See* Ruth F. Sturm, *A Manual of Customs Law* 182 (1974). The rule stands for the proposition that:

> Certain amounts of an ingredient, although substantial, may be ignored for classification purposes, depending upon many different circumstances, including the purpose which Congress sought to bring about by the language used and whether or not the amount used has really changed or affected the nature of the article, and of course, its salability.

Varsity Watch Company v. *United States,* 43 Cust. Ct. 1, C.D. 2094 (1959), *appeal dismissed,* 47 CCPA 173 (1959).

In a prior application of the *de minimis* rule to the term ''in part of braid,'' CBP determined that if the quantity of ornamental braid in an article serves a useful purpose or affects the nature of the article or increases the salability of the article, the baseball style cap would be considered ''in part of braid'' for classification purposes. *See* Headquarters Ruling Letter (HQ) 087060, dated August 17, 1990, in which CBP determined that a baseball-style cap with non-contrasting ornamental braid measuring nine inches long and 3/16-inch wide between the peak and the crown was classifiable as ''not in part of braid.'' Upon reconsideration of this ruling, CBP held in HQ 088438, dated January 14, 1991, that the cap was classifiable as ''in part of braid'' by application of the *de minimis* rule.

After the issuance of these rulings, CBP published a proposed interpretive rule in the **Federal Register** concerning the classification of baseball-style caps featuring ornamental braid located between peak and crown. *See* 56 FR 46134, dated September 10, 1991. The proposed interpretive rule solicited comment from the public as to the appropriate width of ornamental braid on a baseball-style cap that would be determinative of classification for purposes of the *de minimis* rule. Three comments were received; however, none of the submitted comments assisted CBP in formulating a definitive threshold width.

CBP did not publish a final interpretive rule on this issue. Since publication of the proposed interpretive rule in 1991, CBP has issued inconsistent classification rulings on merchandise featuring ornamental braid of various widths. In this regard, it is noted that several of these rulings adopted a ⅛ of an inch standard for purposes of the *de minimis* rule. In this document, CBP proposes this same standard as a means of ensuring the uniform application of the *de minimis* rule and providing consistency in the classification of baseball-style caps with braid trim. It is CBP's view that braid trim in widths of less than ⅛ of an inch will not appreciably affect a cap's salability or utility. Accordingly, CBP is proposing that ornamental braid on a baseball-style cap in a width of ⅛ of an inch or greater will render the cap classifiable as ''wholly or in part of braid.'' Conversely, it is proposed that such braid in a width of less than 1/8 of an inch will result in a cap being classifiable as ''not in part of braid.''

CBP is soliciting public comment as to the appropriateness of the proposed threshold width.

Comments

CBP will consider written comments timely submitted in its review of the proposed width (*i.e.*, less than ⅛ of in inch) at which ornamental braid located between peak and crown on a baseball-style cap should be considered *de minimis* so as to result in the cap's classification in the HTSUS as ''not in part of braid.'' Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)) on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW., Washington, DC. Arrangements to inspect submitted documents should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Office of Regulations and Rulings, U.S. Customs and Border Protection. However, personnel from other offices participated in its development.

Dated: August 23, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04–19581 Filed 8–26–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1539–DR]

Florida; Amendment No. 4 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1539–DR), dated August 13, 2004, and related determinations.

DATES: Effective August 19, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, William L. Carwile, III, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Michael E. Bolch as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–19587 Filed 8–26–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1535–DR]

Kansas; Amendment No. 3 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1535-DR), datedAugust 3, 2004, and related determinations.

DATES: Effective August 18, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 3, 2004:

Rooks and Woodson Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–19590 Filed 8–26–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1537–DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA–1537–DR), datedAugust 6, 2004, and related determinations.

DATES: Effective August 19, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 6, 2004:

Shelby County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund

Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–19588 Filed 8–26–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1534–DR]

New York; Amendment No. 2 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–1534-DR), datedAugust 3, 2004, and related determinations.

DATES: Effective August 18, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 3, 2004:

Hamilton County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–19591 Filed 8–26–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1536–DR]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of West Virginia (FEMA–1536–DR), datedAugust 6, 2004, and related determinations.

DATES: Effective August 19, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of West Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 6, 2004:

Mingo County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–19589 Filed 8–26–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Impact Statement/ Environmental Impact Report on the Bair Island Restoration and Management Plan, Don Edwards San Francisco Bay National Wildlife Refuge and the Bair Island State Ecological Reserve, San Mateo County, CA and Announcement of Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of EIS/EIR and public meeting.

SUMMARY: The U.S. Fish and Wildlife Service and the California Department of Fish and Game are proposing to restore to tidal action 1,400 acres of former salt ponds on Bair Island, Don Edwards San Francisco Bay National Wildlife Refuge and the Bair Island State Ecological Reserve in South San Francisco Bay.

A Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) has been prepared jointly by the Service and the California Department of Fish and Game to analyze the impacts of the restoration plan and is available for public review. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. The analyses provided in the Draft EIS/EIR are intended to inform the public of our proposed action, alternatives, and associated impacts; address public comments received during the scoping period for the Draft EIS/EIR; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action. A public meeting will be held in Redwood City, California.

Public Meeting: A public meeting to solicit comments on the draft Environmental Impact Statement will be held on September 22, 2004, from 7 p.m. to 9 p.m. at the Redwood City Veteran's Memorial Senior Center, 1455 Madison Avenue, Redwood City, California 94061. Persons needing reasonable accommodations in order to attend and participate in this public meeting should contact the Refuge Manager at (510) 792–0222 sufficiently in advance of the meeting to allow time to process the request.

DATES: A public meeting to solicit comments on the Draft Environmental

Impact Statement/Report will be held September 22, 2004 from 7 p.m. to 9 p.m. in Redwood City, California.

We will accept public comments until at least 45 days after the Environmental Protection Agency (EPA) publishes its corresponding notice, which sets the public comment deadline for our EIS. In accordance with NEPA, we have filed the EIS with EPA. Each Friday, EPA publishes a **Federal Register** notice that lists EIS's received during the previous week. The EPA notice officially starts the public comment periods for these documents. Therefore, in accordance with that process, the EPA notice will announce the closing date for receipt of public comments on our EIS.

ADDRESSES: Public meeting location will be at the Veteran's Memorial Senior Center, 1455 Madison Ave., Redwood City, California 94061.

Send comments to Refuge Manager, U.S. Fish and Wildlife Service, San Francisco Bay NWR Complex, P.O. Box 524, Newark, California 94560. Written comments may be sent by facsimile to (510) 792–5828 or by e-mail to *sfbaynwrc@r1.fws.gov.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the Federal National Environmental Policy Act (NEPA) process may be directed to Clyde Morris, Refuge Manager, Don Edwards San Francisco Bay NWR, at the above address; telephone (510) 792–0222.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the Draft Environmental Impact Statement should contact the Service by letter, facsimile or e-mail to the Don Edwards San Francisco Bay National Wildlife Refuge (see **ADDRESSES**). The document is also available for public inspection, by appointment, during regular business hours, at the Don Edwards San Francisco Bay National Wildlife Refuge at the headquarters, #1 Marshlands Road, Fremont, California and at the Environmental Education Center, 1751 Grand Boulevard, Alviso, California. Call (510) 792–0222 if directions are needed. Copies are also available for viewing at public libraries in Redwood City (1044 Middlefield Road, Redwood City, California) and San Carlos (610 Elm Street, San Carlos, California). The document may also be viewed on the South Bay Salt Pond Restoration Project Web site *http://www.southbayrestoration.org/documents.html.*

Background

The Bair Island Complex is divided into three distinct areas separated by slough channels: Inner, Middle, and Outer Bair. Inner Bair Island is connected to the mainland with access from Whipple Avenue and U.S. Highway 101. Inner Bair Island is separated from Middle Bair by Smith Slough, which in turn is separated from Outer Bair by Corkscrew Slough.

Historically, Bair Island was part of a large complex of tidal marshes and mud flats within the drainage of San Francisco Bay, Redwood Creek and Steinberger Slough. Bair Island was diked in the late 1800's and early 1900's for agricultural purposes. It was converted to commercial salt ponds in 1946 and remained in production until 1965. The lands were then drained and sold to a series of real estate development companies. A local referendum in the City of Redwood City halted development plans for Bair Island. The California Department of Fish and Game (CDFG) and the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) both acquired portions of Bair Island over time. The Peninsula Open Space Trust purchased the majority of the remaining portions of Bair Island in 1999 and their interests were acquired by these agencies. Among several other landowners still remaining on Bair Island, the San Carlos Airport retains a portion of Inner Bair Island as a flight safety zone. In addition, two easements exist on Bair Island, for the Pacific Gas and Electric transmission towers and lines that run throughout the site and for the South Bayside System Authority (SBSA) force main that runs underneath most of the southern part of the levee on Inner Bair Island. Pedestrians and bicyclist currently use the top of the Inner Bair Island levee as a three-mile loop trail with a ½ mile trail cutting across Inner Bair Island during the dry season. Portions of Middle and Outer Bair Island are used for waterfowl hunting but there is little fishing occurring. Redwood Creek and to a lesser extent, Smith, Corkscrew and Steinberger Sloughs are popular recreational boating areas.

The goal of the proposed Bair Island Restoration and Management Plan is to restore Bair Island to a tidal salt marsh to provide habitat for endangered species and other native wildlife as well as to enhance the public's appreciation and awareness of the unique resources at Bair Island. Once restored, the site will assist with the preservation and recovery of both the California clapper rail and the salt marsh harvest mouse. These two species were listed by the Fish and Wildlife Service as endangered species on October 13, 1970.

Alternatives Analyzed

The Draft EIS/EIR considers five alternatives: a No Action Alternative, Alternative 1: Tidal Marsh Restoration with Moderate Public Access Alternative (Proposed Action), Alternative 2: Tidal Marsh Restoration with Restricted Public Access Alternative, Alternative 3: Tidal and Managed Marsh Restoration with Moderate Public Access Alternative and Alternative 4: Tidal and Managed Marsh with Restricted Public Access Alternative.

Under the No Action alternative, the Refuge would discontinue on-going levee maintenance and would not repair any levee breaks. The Refuge would work with the San Carlos Airport and the SBSA to protect their infrastructure on Inner Bair Island.

The existing levees on Middle and Outer Bair Island would eventually breach causing unmanaged tidal inundation of the ponds. This would result in several impacts to existing infrastructure. There would be an increase in the sedimentation rate of the Redwood Creek Shipping Channel resulting in the need for more frequent dredging by the Port of Redwood City. At least in the short-term, there would be an increase in the velocity rate of the tidal waters at the junction of Smith Slough and Redwood Creek making use of the Pete's Harbor Marina more difficult. Ponding of water on Inner Bair Island would increase the bird strike issue for the San Carlos Airport. Approximately 1,400 acres of tidal salt marsh would eventually be restored but the No Action Alternative would delay restoration of the ponds to salt marsh by 20–100 years and, at least in the short term, result in poorer quality endangered species habitat being developed compared to the four action alternatives.

In the short-term (approximately five years), the No Action alternative would provide limited public use consistent with protection of wildlife habitat and public safety. In the long term (approximately five to ten years), as the Inner Bair Island levee became unsafe, public use of the 3-mile trail would be eliminated and the area would be closed to public access. No additional public use infrastructure such as wildlife viewing platforms and interpretive signage would be installed and the Bair Island parking lot would be closed.

In Alterative 1, the Tidal Marsh Restoration with Moderate Public Access Alternative, full tidal salt marsh restoration would occur on Outer,

Middle and Inner Bair Island. The levees on Middle and Outer Bair Island would be breached and dredge material would be used to raise the elevation of Inner Bair Island to prevent increasing the bird strike issue for San Carlos Airport. Following dredge material placement, the Inner Bair Island levee would be breached restoring the historic meander of Smith Slough to prevent unacceptable tidal velocities at Pete's Harbor Marina. A flow restrictor would be installed in Corkscrew Slough to prevent increased sedimentation of the Redwood Creek Shipping Channel. Approximately 1,400 acres of tidal salt marsh would be restored more quickly than the No Action Alternative for the endangered California clapper rail, salt marsh harvest mouse and other native wildlife.

A wildlife viewing platform with portage for small boats would be constructed at the flow restrictor in Corkscrew Slough. A 5 mph speed limit and no wake zone would be implemented in Smith and Corkscrew Slough to protect harbor seals and other sensitive wildlife. In addition to waterfowl hunting, Refuge guided trips would continue to be the only public access allowed on Outer and Middle Bair Island. On Inner Bair Island, 2.7 miles trails on the levee which would end at wildlife platforms adjacent to Smith Slough would replace the 3-mile loop trail. Pets (dogs only) would be allowed on the Inner Bair Island trails on a 6-foot leash for a test period to determine compliance with Refuge regulations designed to protect wildlife.

Alternative 2, the Tidal Marsh Restoration with Restricted Public Access Alternative, would be the same as the Preferred Alternative (Alternative 1) except for the following: (1) No pets would be allowed on Inner Bair Island and the public access trail would be reduced to 1.8 miles on the levee to the north ending in one wildlife viewing platform on Smith Slough, and (2) there would be a seasonal closure to boating in Corkscrew Slough to protect harbor seals. Approximately 1,400 acres of tidal salt marsh would be restored more quickly that the No Action Alternative for the endangered California clapper rail, salt marsh harvest mouse and other native wildlife.

Alternative 3, the Tidal and Managed Marsh Restoration with Moderate Public Access Alternative, would be the same as Alternative 1 except Inner Bair Island would not be restored to tidal salt marsh. Using water control structures, managed salt marsh would be created on Inner Bair Island, a flow restrictor would be built in Smith Slough to prevent an unacceptable increase in tidal velocity at Pete's Harbor Marina and the slough would not be restored to its historic meander. Approximately 1,100 acres of tidal salt marsh would be restored on Outer and Middle Bair Island more quickly than the No Action Alternative for the endangered California clapper rail, salt marsh harvest mouse and other native wildlife. Three hundred acres of managed salt marsh would be created on Inner Bair Island for the salt marsh harvest mouse but no habitat would be created for the endangered California clapper rail. Public use would be the same as Alternative 1.

Alternative 4, the Tidal and Managed Marsh Restoration with Restricted Public Access Alternative would be a mixture of Alternative 2 and Alternative 3. The restoration of 1,100 acres of tidal salt marsh and 300 acres of managed salt marsh on Inner Bair Island would be the same as Alternative 3. The restricted public access would be the same as Alternative 2.

The Service invites the public to comment on the Draft Environmental Impact Statement/Environmental Impact Report during a 45-day public comment period. The Service will evaluate the comments submitted thereon to prepare a Final Environmental Impact Statement/ Environmental Impact Report. A decision will be made no sooner than 30 days after the publication of the Final Environmental Impact Statement/ Environmental Impact Report.

This notice is provided pursuant to regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6)

Dated: August 13, 2004.

D. Kenneth McDermond,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 04–19060 Filed 8–26–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–049–1040–JH]

Second Call for Nominations for the Gila Box Riparian National Conservation Area (NCA) Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Call for Nominations.

SUMMARY: The Bureau of Land Management (BLM) is publishing this Notice under Section 9(a)(2) of the Federal Advisory Committee Act to solicit public nominations for four members on the Gila Box Riparian NCA Advisory Committee. The Advisory Committee was created through Title 2, Section 201, of the Arizona Desert Wilderness Act of 1990 to provide informed advice to the Safford Field Manager on management of public lands in the Gila Box Riparian NCA in southeastern Arizona.

Any individual or organization may nominate one or more persons to serve on the Advisory Committee. Persons wishing to nominate themselves or other individuals should submit an application form, which is available from the BLM Safford Field Office or online at *www.az.blm.gov* in the News Release section. The application must include at least one letter of recommendation that addresses the nominee's qualifications.

DATES: Nominations and reference letters should be mailed to the BLM address on the application form, and must be received no later than September 30, 2004.

FOR FURTHER INFORMATION CONTACT: Jeff Wilbanks, BLM Safford Field Office, 711 14th Avenue, Safford, AZ 85546; call (928) 348–4573; or e-mail *Jeff_Wilbanks@blm.gov.*

SUPPLEMENTARY INFORMATION: To ensure membership of the Advisory Committee is balanced in terms of categories of interest represented, nominees must be qualified to provide advice in specific areas related to the primary purposes for which the NCA was created. These include wildlife conservation, riparian ecology, hydrology, outdoor recreation, watershed management, environmental education, cultural resources, or other related disciplines. Committee members are selected by the Secretary of the Interior to serve staggered terms of one to three years, with terms beginning on the date of appointment. The Advisory Committee will meet 2–4 times each year. Members serve without salary, but are reimbursed for travel and per diem expenses at current rates for government employees.

Dated: July 15, 2004.

Bill Brandau,

Acting Field Manager.

[FR Doc. 04–19610 Filed 8–26–04; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–040–1310–DD]

Notice of Availability of the Record of Decision and the Final Environmental Impact Statement for Desolation Flats Natural Gas Field Development Project, Carbon and Sweetwater Counties, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability (NOA).

SUMMARY: In accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) announces the availability of the ROD for Desolation Flats Natural Gas Field Development Project.

ADDRESSES: The document will be available electronically on the following Web site: *http://www.wy.blm.gov/nepa/nepadocs.htm.* Copies of the ROD are available for public inspection at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.
- Bureau of Land Management, Rawlins Field Office, 1300 N. 3rd Street, Rawlins, Wyoming 82301.
- Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: David Simons, Project Leader, Rawlins Field Office, 1300 N. 3rd Street, Rawlins, Wyoming 82301 or Teri Deakins, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. Mr. Simons and Ms. Deakins may be contacted by telephone at (307) 328–4200 and (307) 352–0329, respectively.

SUPPLEMENTARY INFORMATION: This ROD addresses approximately 233,542 acres of public lands administered by the BLM Rock Springs and Rawlins Field Offices, Carbon and Sweetwater Counties, Wyoming. A copy of the ROD has been sent to affected Federal, State, and local government agencies and interested parties.

Dated: July 7, 2004.

Donald A. Simpson,

Acting State Director.

[FR Doc. 04–19609 Filed 8–26–04; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–920–04–1310–FI–P; (MTM 88852)]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease MTM 88852

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Pub. L. 97–451, the lessee timely filed a petition for reinstatement of oil and gas lease MTM 88852, Blaine County, Montana. The lessee paid the required rental accruing from the date of termination.

We haven't issued any leases affecting the lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $155 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- the increased rental of $10 per acre;
- the increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- the $155 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, (406) 896–5098.

Dated: July 22, 2004.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 04–19608 Filed 8–26–04; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued

Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
CT030001 (Jun. 13, 2003)
CT030003 (Jun. 13, 2003)
CT030004 (Jun. 13, 2003)
CT030005 (Jun. 13, 2003)
Vermont
VT030001 (Jun. 13, 2003)
VT030007 (Jun. 13, 2003)
VT030011 (Jun. 13, 2003)
VT030042 (Jun. 13, 2003)

Volume II

Pennsylvania
PA030002 (Jun. 13, 2003)
PA030007 (Jun. 13, 2003)
PA030008 (Jun. 13, 2003)
PA030019 (Jun. 13, 2003)
PA030021 (Jun. 13, 2003)
PA030023 (Jun. 13, 2003)
PA030024 (Jun. 13, 2003)
PA030026 (Jun. 13, 2003)
PA030028 (Jun. 13, 2003)
PA030035 (Jun. 13, 2003)
PA030054 (Jun. 13, 2003)
PA030059 (Jun. 13, 2003)
PA030060 (Jun. 13, 2003)
PA030061 (Jun. 13, 2003)
Virginia
VA030018 (Jun. 13, 2003)

Volume III

Florida
FL030001 (Jun. 13, 2003)
FL030009 (Jun. 13, 2003)
FL030032 (Jun. 13, 2003)
Tennessee
TN030023 (Jun. 13, 2003)

Volume IV

None

Volume V

Kansas
KS030001 (Jun. 13, 2003)
KS030015 (Jun. 13, 2003)
Louisiana
LA030002 (Jun. 13, 2003)
LA030006 (Jun. 13, 2003)
LA030012 (Jun. 13, 2003)
LA030015 (Jun. 13, 2003)
LA030052 (Jun. 13, 2003)
Missouri
MO030003 (Jun. 13, 2003)
MO030010 (Jun. 13, 2003)
MO030041 (Jun. 13, 2003)
MO030055 (Jun. 13, 2003)
MO030059 (Jun. 13, 2003)

Volume VI

Colorado
CO030011 (Jun. 13, 2003)
CO030013 (Jun. 13, 2003)

Volume VII

California
CA030001 (Jun. 13, 2003)
CA030002 (Jun. 13, 2003)
CA030004 (Jun. 13, 2003)
CA030009 (Jun. 13, 2003)
CA030013 (Jun. 13, 2003)
CA030019 (Jun. 13, 2003)
CA030023 (Jun. 13, 2003)
CA030025 (Jun. 13, 2003)
CA030028 (Jun. 13, 2003)
CA030029 (Jun. 13, 2003)
CA030030 (Jun. 13, 2003)
CA030031 (Jun. 13, 2003)
CA030032 (Jun. 13, 2003)
CA030033 (Jun. 13, 2003)
CA030035 (Jun. 13, 2003)
CA030036 (Jun. 13, 2003)
CA030037 (Jun. 13, 2003)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 19th day of August 2004.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 04–19399 Filed 8–26–04; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0064(2004)]

OSHA–7 Form (''Notice of Alleged Safety and Health Hazards''); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request for an extension of the information collection requirements specified by the OSHA–7 Form.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by October 26, 2004.

Facsimile and electronic transmission: Your comments must be received by October 26, 2004.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0064(2004), by any of the following methods:

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington,

DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). The OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., ET.

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.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov/.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://OSHA.gov.* Comments, submissions and the ICR are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR.

(For additional information on submitting comments, please see the ''Public participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.)

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this document by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page.

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 (TTY (877) 889–5627) for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page.

II. 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 minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Under paragraphs (a) and (c) of 29 CFR 1903.11 (''Complaints by employers'') employees and their representatives may notify the OSHA area director or an OSHA compliance officer of safety and health hazards regulated by the Agency that they believe exist in their workplaces at any time. These provisions state further that this notification must be in writing and ''shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representatives of the employee.''

Along with providing specific hazard information to the Agency, paragraph (a) permits employees/employee representatives to request an inspection of the workplace. Paragraph (c) also addresses situations in which employees/employee representatives may provide the information directly to the OSHA compliance officer during an inspection. An employer's former employees may also submit complaints to the Agency.

To address the requirements of paragraphs (a) and (c), especially the requirement that the information be in writing, the Agency developed the OSHA–7 Form; this form standardized and simplified the hazard-reporting process. For paragraph (a), they may complete an OSHA–7 Form obtained from the Agency's Web site and then send it to OSHA on-line, or deliver a hardcopy of the form to the OSHA area office by mail or facsimile, or by hand. They may also write a letter containing the information and hand-deliver it to the area office, or send it by mail or facsimile. In addition, they may provide the information orally to the OSHA area office or another party (*e.g.*, a Federal safety and health committee for Federal employees), in which case the area office or other party completes the hardcopy version of the form. For the typical situation addressed by paragraph (c), an employee/employee representation informs an OSHA compliance officer orally of the alleged hazard during an inspection, and the compliance officer then completes the hardcopy version of the OSHA–7 Form; occasionally, the employee/employee representative provides the compliance officer with the information on the hardcopy version of the OSHA–7 Form.

The information in the hardcopy version of the OSHA–7 Form includes information about the employer and alleged hazards, including: The establishment's name, mailing address, and telephone and facsimile numbers; the site's address and telephone facsimile numbers; the name and telephone number of the management official; the type of business; a description, and the specific location of the hazards, including the approximate number of employees exposed or threatened by the hazards; and whether or not the employee/employee representative informed another government agency about the hazards (and the name of the agency if informed).

Additional information on the hardcopy version of the form addresses the complainant including: Whether or not the complainant wants OSHA to reveal their name to the employer; whether the complainant is an employee or an employee representative, or for information provided orally, a member of a Federal safety and health committee or another party (with space to specify the party); the complainant's name, telephone number, and address; and the complainant's signature attesting that they believe a violation of an OSHA standard exists at the named establishment; and the date of the signature. An employee representative must also provide the name of the organization they represent and their title.

The information contained in the on-line version of the OSHA–7 Form is similar to the hard copy version. However, the on-line version requests the complainant's e-mail address, and

does not ask for the establishment's and site's telephone and facsimile numbers and the complainant's signature and signature date.

The Agency uses the information collected on the OSHA–7 Form to determine whether reasonable grounds exist to conduct an inspection of the workplace. The description of the hazards, including the number of exposed employees, allows the Agency to asses the severity of the hazards and the need to expedite the inspection. The completed form also provides an employer with notice of the complaint and may serve as the basis for obtaining a search warrant if an employer denies the Agency access to the workplace.

III. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency'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.

IV. Proposed Actions

OSHA is proposing to extend the information collection requirements contained on the OSHA–7 Form. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirement contained in the Standard.

Type of Review: Extension of currently approved information collection requirements.

Title: Notice of Alleged Safety and Health Hazards, OSHA 7 Form.

OMB Number: 1218–0064.

Affected Public: Individuals or households.

Number of Respondents: 50,955.

Frequency of Response: On occasion.

Total Responses: 50,955.

Average Time per Response: Varies from 15 minutes (.25 hour) to communicate the required information orally to the Agency to 25 minutes (.42 hour) to provide the information in writing and send it to OSHA.

Estimated Total Burden Hours: 13,611 hours.

Estimated Cost (Operation and Maintenance): $692.

V. 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 August 23, 2004.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 04–19629 Filed 8–26–04; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0003 (2004)]

Gear Certification Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend OMB approval of the Information Collection Requirements contained in the Gear Certification Standard (29 CFR part 1919). These maritime regulations require employers to have an OSHA 71 Form issued for equipment found to be in a safe condition and the OSHA 72 Form issued to equipment that is unsafe. These forms are issued by third parties who have applied to OSHA, on the OSHA 70 Form, for accreditation to certify gear used in maritime employment.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or received) by October 26, 2004.

Facsimile and electronic transmission: Your comments must be received by October 26, 2004.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0003 (2004), by any of the following methods:

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., ET.

Facsimile: If your comments are 10 pages or fewer in length, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* Comments, submissions, and the ICR are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

(For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.)

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. 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) 2693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the

OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page.

II. 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 minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information to collection by employees as necessary or appropriate or enforcement of the Act or for developing information regarding the causes and prevention of occupational inquiries, illnesses, and accidents (28 U.S.C. 657).

The OSHA 70 Form is used by applicants seeking accreditation from OSHA to be able to test or examine certain equipment and material handling devices, as required under the maritime regulations, part 1917 (Marine Terminals), and part 1918 (Longshoring). The OSHA 70 Form application for accreditation provides an easy means for companies to apply for accreditation.

The OSHA 71 Form is required to be issued by the those accredited by OSHA to employers in the maritime industry to make known that certain equipment and material handling devices are safe to use of operate. The OSHA 72 Form is required to be issued by those accredited by OSHA to employers in the maritime industry when the equipment or material handling device is found to be unsafe to use.

The collection of the information needed to complete these forms is necessary to provide an affective and efficient means of enabling employers and employees to determine if cargo gear, equipment and/or other material handling devices are safe to use.

III. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- OSHA has a particular interest in comments on the following times.
- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, 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 improvement 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.

IV. Proposed Actions

OSHA is proposing to extend the information collection requirements in the Gear Certification Standard (29 CFR part 1919). 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 contained in the Standard.

Type of Review: Extension of currently approved information collection requirements.

Title: Gear Certification (29 CFR part 1919).

OMB Number: 1218–0003.

Affected Public: Business or other for-profit, not-for-profit institutions; Federal government; State, local, or Tribal governments.

Number of Respondents: 80.

Frequency of Response: On occasion, annually; quadrenially.

Total Responses: 82.

Average Time per Response: Varies from 2 minutes (.03 hour) for a supervisor to disclose forms to an OSHA Compliance Officer during an inspection to 45 minutes (.75 hour) for an accredited agency to complete the OSHA 70 Form.

Estimated Total Burden Hours: 61.

Estimated Cost (Operation and Maintenance): $1,452,000.

V. Authority and Signature

John L. Henshaw, Assistant Secretary of the 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 *et seq.*) and Secretary of Labor's Order No, 5–2002 (67 FR 65008).

Signed at Washington, DC, on August 23, 2004.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 04–19630 Filed 8–26–04; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on October 13 and 14, 2004. A sample of agenda items to be discussed during the public sessions includes: (1) Use of I–125 Brachytherapy Seeds as Markers; (2) Proposed Changes to Abnormal Occurrence Criteria; (3) Discussion of Medical Event Criteria; and, (4) Update on St. Joseph Mercy Hospital Dose Reconstruction Case. To review the agenda, see *http://www.nrc.gov/reading-rm/doc-collections/acmui/schedules/2004/* or contact *arm@nrc.gov*.

PURPOSE: Discuss issues related to 10 CFR Part 35, Medical Use of Byproduct Material.

DATE AND TIME FOR CLOSED SESSION MEETING: October 13, 2004, from 8 a.m. to 10 a.m. This session will be closed so that NRC staff can give the ACMUI its required annual ethics briefing.

DATES AND TIMES FOR PUBLIC MEETINGS: October 13, 2004, from 8:30 a.m. to 5 p.m.; October 14, 2004, from 8 a.m. to 5 p.m.

ADDRESS FOR PUBLIC MEETINGS: U.S. Nuclear Regulatory Commission, Two White Flint North Building, Room T2B3, 11545 Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Angela R. McIntosh, telephone (301) 415–5030; e-mail *arm@nrc.gov* of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Conduct of the Meeting

Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a

reproducible copy to Angela R. McIntosh, U.S. Nuclear Regulatory Commission, Two White Flint North, Mail Stop T8F5, 11545 Rockville Pike, Rockville, MD 20852–2738. Submittals must be postmarked by September 15, 2004, and must pertain to the topics on the agenda for the meeting.

2. Questions from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection on NRC's Web site (*http://www.nrc.gov*) and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852–2738, telephone (800) 397–4209, on or about January 14, 2005. This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations,* Part 7.

4. Attendees are requested to notify Angela R. McIntosh at (301) 415–5030 of their planned attendance if special services, such as for the hearing impaired, are necessary.

Dated at Rockville, Maryland, this 23rd day of August, 2004.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 04–19595 Filed 8–26–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[License Nos. (as shown in Attachment 2); Docket Nos. (as shown in Attachment 2); EA–03–099]

Decommissioning Power Reactor Licensees Order Modifying License (Effective Immediately)

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of order for implementation of additional security measures associated with access authorization.

FOR FURTHER INFORMATION CONTACT: John Hickman, Project Manager, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. Telephone: (301) 415–3017; fax number: (301) 415–5398; e-mail *JBH@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Code of Federal Regulations Title 10 part 2.106, the Nuclear Regulatory Commission is providing notice in the matter of decommissioning power reactor licensees order modifying license (effective immediately).

II. Further Information

I. The licensees identified in Attachment 2 to this Order hold licenses issued by the Nuclear Regulatory Commission (NRC or Commission) authorizing possession of nuclear power plants in accordance with the Atomic Energy Act of 1954 and Code of Federal Regulations Title 10 (10 CFR) part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensee to maintain safeguards contingency plan procedures in accordance with 10 CFR part 73, Appendix C. Specific safeguards requirements are contained in 10 CFR 73.55.

II. On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to assess the adequacy of security measures at licensed facilities. In addition, the Commission conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security requirements and the Order issued on May 23, 2002, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to address the current threat environment. Therefore, the Commission is imposing requirements, as set forth in Attachment 1 [1] of this Order, on all decommissioning power reactor licensees with spent fuel in the spent fuel pool. These requirements, which supplement existing regulatory requirements, provide the Commission with reasonable assurance that the public health and safety, and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 1 to this Order in response to previously issued advisories, the May 2002 Order, or on their own. It also recognizes that some measures may not be possible or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safety.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories and the May 2002 Order have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these security measures must be supplemented further because the current threat environment continues to persist. Therefore, it is appropriate to require additional security measures and these measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 2 to this Order shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

III. Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 50 and 73, it is hereby ordered, effective immediately, that all licenses identified in Attachment 2 to this order are modified as follows:

A. All licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The licensees shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation no later than 180 days from the date of this Order with the exception of additional security

[1] Attachment 1 contains SAGEGUARDS information and will not be released to the public.

measure B.4, which shall be implemented no later than 365 days from the date of this Order.

B.1. The Licensee shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.

2. Any licensee that considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact the safety of the facility must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirements in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required under Condition B.1.

C.1. All licensees shall, within twenty (20) days of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 1.

2. All licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding the provisions of 10 CFR 50.54(p), all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise. The Licensee's response to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 50.4. In addition, licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21. The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV. In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator for NRC Region I, II, III or IV as appropriate for the specific facility; and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that requests for a hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations or error.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 18th day of August 2004.

For the Nuclear Regulatory Commission.

Margaret V. Federline,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

Attachment 2—Decommissioning Power Reactor Licensees With Spent Fuel in a Spent Fuel Pool

Senior Executive Contacts

Mr. K. J. Heider, Vice President—Operations and Decommissioning, Haddam Neck Plant, Connecticut Yankee Atomic Power Co., Docket No. 50–213, License No. DPR–61, 362 Injun Hollow Road, East Hampton, CT 06424–3099.

Mr. Gregory Rueger, Senior Vice President Generation and Chief Nuclear Officer, Humboldt Bay Power Plant Unit 3, Pacific Gas and Electric Co., Docket No. 50–133, License No. DPR–7, Pacific Gas and Electric Company, 77 Beale Street, 32nd Floor, San Francisco, California 94105.

Mr. William L. Berg, President & CEO, La Crosse Boiling Water Reactor, Docket No. 50–409, License No. DPR–45, Dairy Land Power Cooperative, 3200 East Avenue South, La Crosse, WI 54601.

Mr. Harold B. Ray, Executive Vice President, San Onofre Nuclear Generating Station, Unit 1, Docket No. 50–206, License No. DPR–13, 8631 Rush Street, Rosemead, CA 91770.

Mr. John L. Skolds, President and Chief Nuclear Officer, Zion Nuclear Power Station, Units 1 and 2, Docket Nos. 50–295 & 50–304, License Nos. DPR–39 & DPR–48, Exelon Nuclear, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

[FR Doc. 04–19585 Filed 8–26–04; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

September 9, 2004 Board of Directors Meeting

TIME AND DATE: Thursday, September 9, 2004, 10 a.m. (Open portion) 10:15 a.m. (Closed portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting Open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report
2. Approval of July 29, 2004 Minutes (Open portion)

FURTHER MATTERS TO BE CONSIDERED: (Closed to the public 10:15 a.m.)

1. Allocation to reserves
2. Finance project—Africa
3. Finance project—Africa
4. Approval of July 29, 2004 minutes (closed portion)
5. Pending major projects
6. Reports

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: August 25, 2004.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 04–19722 Filed 8–25–04; 2:58 pm]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50226; File No. SR–NASD–2004–043]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Disclosure of Fees and Expenses in Mutual Fund Performance Sales Material

August 20, 2004.

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 March 9, 2004, 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. 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 Rules 2210 and 2211 of NASD to require mutual fund communications with the public that provide performance data to disclose the fund's fees, expenses and standardized performance. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

2210. Communications With the Public

(a) through (c) No change.

(d) Content Standards

(1) through (2) No change.

(3) Disclosure of Fees, Expenses and Standardized Performance

(A) Communications with the public, other than institutional sales material and public appearances, that present performance data for any non-money market, open-end management investment company that has registered on Form N–1A under the Investment Company Act of 1940, as permitted by Rule 482 under the Securities Act of 1933 and Rule 34b–1 under the Investment Company Act of 1940, must disclose:

(i) the standardized performance information mandated by Rule 482 and Rule 34b–1; and

(ii) to the extent applicable:

a. the maximum sales charge imposed on purchases or the maximum deferred sales charge, as required by Item 3 of Form N–1A and stated in the investment company's prospectus current as of the date of submission of an advertisement for publication, or as of the date of distribution of other communications with the public; and

b. annual fund operating expenses, as stated in the investment company's prospectus described in subparagraph a.

(B) All of the information required by subparagraph (A) must be set forth:

(i) clearly and prominently, and standardized performance information must be in a type size that is at least as large as that used to present any nonstandardized performance;

(ii) with respect to any radio, television or video advertisement, with equal emphasis to that given to any nonstandardized performance; and

(iii) in any advertisement other than a radio, television or video advertisement, in a prominent text box that contains only the required information.

(e) No change.

* * * * *

2211. Institutional Sales Material and Correspondence

(a) through (c) No change.

(d) Content Standards Applicable to Institutional Sales Material and Correspondence

(1) All institutional sales material and correspondence are subject to the content standards of Rule 2210(d)(1) and the applicable Interpretive Materials under Rule 2210, *and all correspondence is subject to the content standards of paragraph (d)(3) of this rule.*

(2) through (3) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD proposes to amend Rules 2210 and 2211 to require member communications with the public, other than institutional sales material, that present mutual fund performance information to disclose the fund's fees, expenses and standardized performance. These new requirements would improve investor awareness of the costs of buying and owning a mutual fund, facilitate comparison of funds and make the presentation of standardized performance more prominent. The proposed rule change would require that:

- Performance sales material disclose the fees and expenses associated with purchase and ownership of the fund, derived from the fund's most recent prospectus and stated as a percentage of net assets;
- Performance sales material disclose the standardized performance of the mutual fund, as prescribed in SEC Rules 482 and 34b–1; and
- Advertisements (other than radio, television or video advertisements)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

present the required disclosure in a prominent text box.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, 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 to protect investors and the public interest. The proposed rule change will enhance investor protection by making more transparent the true costs of purchasing and owning a mutual fund and providing useful information on which to base investment decisions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will 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

The proposed rule change was published for comment in NASD Notice to Members 03-77 (the ''NtM''). NASD received 11 comments in response to the NtM. Of the 11 comment letters received, six supported the proposed rule change, and five opposed it.

Some commenters asserted that the proposed rule change would confuse investors or is otherwise unnecessary.[3] One commenter argued that NASD should not adopt the proposed rule change because its greatest impact would be on directly-marketed mutual funds and the lowest-cost funds, despite the fact that most funds are broker-sold.[4] T. Rowe Price suggested that the disclosure requirements should apply only to funds with expense ratios above the average for their category.

SEC Rules 482 and 34b–1 already require disclosure of a broker-sold fund's sales load in performance sales material. The proposed rule change also would require the disclosure of the fund's expense ratio in performance sales material, whether the sales material is distributed by a full-service broker/dealer, a discount broker/dealer, or the underwriter for a directly-marketed fund. Moreover, NASD finds no convincing rationale why lower-cost or directly-marketed funds should object to the proposed presentation of their expense ratios. Indeed, several no-load and directly-marketed mutual fund complexes supported the proposed rule change.[5]

Some commenters also asserted that the proposed rule change would invite investors to pay undue attention to a fund's performance.[6] NASD finds this argument to be without merit. As these commenters surely are aware, performance sales material, especially advertisements, by their nature seek to focus an investor's attention on a fund's historical performance. The proposed rule change would simply balance this emphasis on performance with disclosure concerning the fund's fees and expenses. In addition, the proposed rule change would better ensure that standardized performance is presented in a clear and prominent manner.

Some commenters opposed the requirement that the required disclosure appear in a prominent text box.[7] These commenters especially objected to the imposition of such a requirement in sales literature, such as fund fact sheets and brochures concerning a family of funds. The proposed text box would facilitate the ability of any investor to compare expense information for different funds. Nevertheless, in order to balance this advantage with the practical concerns raised by commenters, the proposed rule change has been amended to impose the text box requirement only on advertisements as defined by Rule 2210.[8] Some commenters also objected to application of the text box requirement to advertisements for multiple funds.[9] While application of the requirement to these advertisements may present practical concerns, the advantages of the text box requirement outweigh the burdens of designing advertisements for multiple funds in a compliant manner.[10]

The NtM requested comment on whether the proposed rule change should require disclosure of the dollar amount of expenses incurred by a hypothetical shareholder in the fund. Commenters generally opposed such an approach.[11] It appears that in order to adopt such an approach NASD either would have to require disclosure of dollar amounts based on the actual returns of a fund, in which case a fund with superior returns would disclose higher expenses, or base the dollar amounts on an assumed rate of return (e.g., 0 percent or 5 percent). An assumed rate of return in sales material could confuse or mislead investors, by either understating the actual dollar amount of expenses or by indicating that the fund may attain a specified performance. For that reason NASD has determined not to amend the proposed rule change in this manner.

Several commenters recommended that the proposed rule change not apply to institutional sales material, in light of the sophistication and expertise of institutional investors.[12] NASD has amended the proposed rule change accordingly. NASD also has excluded public appearances and communications with the public regarding money market funds from the proposed rule change.

Some commenters recommended that the proposed rule change require disclosure of fund expenses as calculated in Item 9 of Form N–1A, rather than Item 3.[13] Item 3 establishes the standards for calculating fees and expenses for purposes of the prospectus fee table, while Item 9 imposes the standards for calculation of fees and expenses for purpose of shareholder reports. The principal difference between the two forms of calculation is that the expenses calculated under Item 3 may not reflect the effect of fee waivers and expense reimbursements that are subject to termination, while those calculated according to Item 9 may reflect these waivers and reimbursements. The prospective purchaser is better informed with disclosure of fees and expenses that do

[3] Letter from the Securities Industry Association (January 22, 2004) (''SIA''); letter from Sherrets & Boecker LLC (January 27, 2004) (''Sherrets & Boecker'').

[4] Letter from T. Rowe Price Investment Services, Inc. (January 23, 2004) (''T. Rowe Price'').

[5] *See* letter from Fidelity Investments (January 23, 2004) (''Fidelity''); letter from The Vanguard Group (January 22, 2004) (''Vanguard'').

[6] *See* Fidelity; SIA; letter from Oppenheimer Funds Distributor, Inc., (January 23, 2004) (''Oppenheimer'').

[7] *See* T. Rowe Price; letter from the Investment Company Institute (January 23, 2004) (''ICI'').

[8] Rule 2210 defines ''advertisement'' as ''any material, other than an independently prepared reprint and institutional sales material, that is published, or used in any electronic or other public media, including any Web site, newspaper, magazine or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, or telephone directories (other than routine listings).''

[9] *See, e.g.,* ICI.

[10] The ICI also asserts that the sample disclosure attached to the NtM fails to comply with the proposed requirement that the text box include no information other than the required disclosure. ICI refers to the statement in the sample disclosure that the performance numbers reflect the deduction of sales charges and annual expenses. As the ICI is aware, mutual fund sales material is subject to a filing requirement under Rule 2210 and the exclusivity requirement would be a matter for review. At the outset, however, it can be said that the exclusivity requirement would not preclude the use of such language, which merely states that the disclosed performance data reflects the disclosed fees and expenses.

[11] *See* T. Rowe Price; ICI.

[12] *See* ICI; Fidelity; Vanguard; Oppenheimer.

[13] *See* ICI; Fidelity; Vanguard.

not reflect fee waivers and expense reimbursements that are subject to termination. Consequently, NASD has amended the proposed rule change to require fee and expense disclosure derived from the most recent prospectus.[14]

Some commenters objected to the proposed requirement that the disclosure of fund expenses be current as of the most recent calendar quarter.[15] The new requirement that the information be derived from the most recent prospectus should address this concern.

Vanguard requested that NASD adopt a ''one click away'' rule for the depiction of the required disclosure in electronic communications. Under this approach, an investor could click on a hyperlink in close proximity to nonstandardized performance in order to obtain the required disclosure. In its recent amendments to Rule 482, the SEC rejected a ''one-click away'' rule for performance-related disclosures required by paragraph (b)(3).[16] NASD similarly has determined that broker/dealers should not rely on a ''one click away'' rule for the disclosure of information that would be required by the proposed rule change. NASD also has amended the proposed rule change to clarify the disclosure standards applicable to different forms of sales material.

The NtM would have provided that the required disclosure be in a type size at least as large as that of the nonstandardized performance. The ICI requested that the proposed rule change instead require that the type size of the required information be at least as large as that used in the major part of a print advertisement. A purpose of the proposed rule change is to require fee, expense and standardized performance disclosure that will balance the nonstandardized performance. In order to meet this particular purpose, NASD has revised the proposal to require that all disclosure be set forth clearly and prominently, and to require that disclosure of standardized performance be in a type size at least as large as that of the nonstandardized performance.

NASD also has amended the proposed rule change to clarify certain other disclosure requirements. We have eliminated the provision that allows communications delivered through an electronic medium to present the disclosure ''in a manner that is intended to draw investor attention to it.'' Upon further consideration we have determined that this standard may be too vague. Under the proposed rule change as amended, Web sites would have to comply with the prominent text box and type size requirements and radio, television and video advertisements would have to provide the required disclosure ''with equal emphasis'' to that given to any nonstandardized performance.

Some commenters also requested that NASD amend the proposed rule change to require disclosure of the ''maximum deferred sales charge'' rather than the ''maximum *contingent* deferred sales charge,'' and to clarify that disclosure of the maximum front-end or deferred sales charge is required only to the extent that the fund imposes such a charge.[17] NASD has amended the proposed rule change accordingly.

Two commenters requested clarification of whether the proposed rule change would apply to variable annuity sales material.[18] NASD has amended the proposed rule change to clarify that it would only apply to open-end management investment companies.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2004–043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR–NASD–2004–043. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2004–043 and should be submitted on or before September 17, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–1950 Filed 8–26–04; 8:45 am]

BILLING CODE 8010–01–P

[14] The proposed rule change would not preclude members from including additional information regarding fee waivers and expense reimbursements, outside the text box in the case of advertisements.

[15] *See* ICI; Fidelity; Vanguard.

[16] *See* SEC Release No. 33–8294 (Sept. 29, 2003), 68 FR 57760, 57767 (Oct. 6, 2003).

[17] ICI; Fidelity.

[18] See letter from Northwestern Mutual Investment Services (January 23, 2004) (opposing application of the proposed rule change to variable products); e-mail message from Brian Wilkerson, Nations Financial Group, Inc. (December 11, 2003).

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4781]

Secretary of State's Advisory Committee on Leadership and Management Notice of Meeting

The Department of State announces the meeting of the Secretary of State's Advisory Committee on Leadership and Management on Wednesday, September 8 in Room 1107 of the U.S. Department of State at 2201 C Street, NW., Washington, DC. The meeting will take place from 1:30 p.m. to 3:30 p.m.

This will be the inaugural meeting of the Committee. Deputy Secretary of State Richard Armitage will chair the meeting. Secretary Powell invited a bipartisan group of prominent Americans to be members of the Committee earlier this year. With their participation and advice, the Department seeks to enhance the ability to carry out U.S. foreign policy today and into the future.

Members of the press and general public may attend the meeting, though attendance will be limited to the seating available. Access to the building is controlled, and photographic identification and individual building passes are required for all attendees.

To attend the meeting, please contact Carlene Roy (*royc@state.gov*) or Lori Porter (*porterl@state.gov*) in the Office of Management Policy at (202) 647–0093 and provide date of birth and Social Security number.

Dated: August 23, 2004.

Marguerite Coffey,

Office of Management Policy, Department of State.

[FR Doc. 04–19749 Filed 8–26–04; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 200: Integrated Modular Avionics (IMA)/ EUROCAE WG–60

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 200 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 200: Integrated Modular Avionics.

DATES: The meeting will be held on September 14–17, 2004 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 200 meeting. The agenda will include:

- September 14:
  - Editorial Committee Meeting
  - Subgroup Meetings: Edit document
- September 15:
  - Opening Session (Welcome, Introductory and Administrative Remarks, Review Agenda, Review Summary of Previous Meeting)
  - Review Action Items
  - Reports on Related Committee Activities
  - Subgroup Reports
  - Review Status of Document
  - Assignment of Action Items
  - Subgroup Meetings: Edit Document
- September 16:
  - Subgroup Meetings: Edit Document
  - Inter-Subgroup Meetings: Work Mutual Action Items
- September 17:
  - Subgroup Reports
  - Review Status of Document
  - Review/Assignment of Action Items
  - Closing Session (Make Assignments, Date and Place of Next Meeting, Closing Remarks, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the Chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 17, 2004.

Robert Zoldos,

FAA Systems Engineer, RTCA Advisory Committee.

[FR Doc. 04–19625 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–6156, FMCSA–2000–7006, FMCSA–2000–7165]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice publishes the FMCSA decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 48 individuals. The FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 21, 2004. Comments from interested persons should be submitted by September 27, 2004.

ADDRESSES: You may submit comments identified by DOT DMS Docket Numbers FMCSA–99–6156, FMCSA–2000–7006, and FMCSA–2000–7165 by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: 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.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Instructions: All submissions must include the agency name and docket numbers for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments

received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or 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.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, (202) 366–2990, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Public Participation: The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the ''help'' section of the DMS web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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 the Department of Transportation'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.*

Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This notice addresses 48 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 48 applications for renewal on their merits and decided to extend each exemption for a renewable two year period. They are:

Elijah A. Allen, Jr.
John W. Arnold
James H. Bailey
Victor F. Brast, Jr.
Derric D. Burrell
Monty G. Calderon
Anthony J. Cesternino
Eric L. Dawson, III
Richard L. Derick
Craig E. Dorrance
Joseph A. Dunlap
John C. Edwards, Jr.
Calvin J. Eldridge
Shawn B. Gaston
James F. Gereau
Ronald E. Goad
Esteban G. Gonzalez
Thanh Van Ha
Reginald I. Hall
James O. Hancock
Paul A. Harrison
Sherman W. Hawk, Jr.
Gordon W. Howell
Robert C. Jeffres
Alfred C. Jewell, Jr.
Larry D. Johnson
David R. Lambert
Ronnie L. LeMasters
Lewis V. McNeice
Duane D. Mims
Kevin J. O'Donnell
Gregory M. Preves
James M. Rafferty
Paul C. Reagle, Sr.
Daniel Salinas
Wayne R. Sears
Lee R. Sidwell
David L. Slack
James C. Smith
Daniel A. Sohn
Roger R. Strehlow
John T. Thomas
Ralph A. Thompson
Brian W. Whitmer
Jeffrey D. Wilson
Larry M. Wink
Joseph F. Wood
William E. Woodhouse

These exemptions are extended subject to the following conditions: (1) That each individual have a physical exam every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 48 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 54948, 65 FR 159, 67 FR 57266, 65 FR 20245, 65 FR 57230, 65 FR 33406, 65 FR 57234). Each of these 48 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by September 27, 2004.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's

procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 69 FR 51346 (August 18, 2004). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: August 19, 2004.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. 04–19567 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2004–18959]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on June 1, 2004.

DATES: Comments must be submitted before September 27, 2004. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: Reporting of Technical Activities by FTA Grant Recipients *(OMB Number: 2132–0549).*

Abstract: 49 U.S.C. Sections 5303 and 5313(a) and (b) authorize the use of federal funds to assist metropolitan planning organizations (MPOs), states, and local public bodies in developing transportation plans and programs to serve future transportation needs of urbanized areas and nonurbanized areas throughout the nation. As part of this effort, MPOs are required to consider a wide range of goals and objectives and to analyze alternative transportation system management and investment strategies. These objectives are measured by definable activities such as planning certification reviews and other related activities.

The information collected is used to report annually to Congress, the Secretary, and to the Federal Transit Administrator on how grantees are responding to national emphasis areas and congressional direction, and allows FTA to trace grantees' use of federal planning and research funds.

Estimated Annual Burden: 156 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: 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.

Issued: August 24, 2004.

Ann M. Linnertz,

Deputy Associate Administrator for Administration.

[FR Doc. 04–19633 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Recall Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for an investigation into the adequacy of a safety recall.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30120(e) by Ms. Angelique Trowbridge, requesting that the agency commence a proceeding to determine the adequacy of the remedy utilized by Ford Motor Company (Ford) to address a safety-related defect in Ford Safety Recall 04S13 (NHTSA 04V–165). After a review of the petition and other information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues raised by the petition does not appear warranted. The agency accordingly has denied the petition. The petition is hereinafter identified as RP04–002.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Z. Cooper, Chief, Vehicle Integrity Division, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5218.

SUPPLEMENTARY INFORMATION: On June 22, 2004, NHTSA received a letter from Ms. Trowbridge requesting that the agency investigate the adequacy of the remedy used by Ford in Safety Recall 04S13 (NHTSA 04V–165). The petitioner alleges that the recall remedy is inadequate and, as evidence, states that after having the recall remedy performed on her model year (MY) 2001 Ford Escape, it did not resolve the stalling condition.

On April 5, 2004, Ford filed a Defect Information Report concerning intermittent closed throttle engine stalling in 321,903 MY 2001–2003 Ford Escape vehicles equipped with 3.0L V6 engines, manufactured between January 31, 2000 and September 11, 2002. Ford reported that an intermittent engine stalling condition is prevalent in these vehicles when the vehicle is in a closed throttle deceleration at speeds of 40 mph and below. The recall remedy involved reprogramming the calibration of the vehicle's Powertrain Control Module (PCM) to correct a rich air/fuel mixture, thereby allowing the engine to operate without experiencing a closed throttle, deceleration-stalling event.

Following receipt of the petition, on July 1, 2004, the Office of Defects Investigation (ODI) sent an information request to Ford to obtain relevant information. Ford's July 23, 2004 response indicates that less than 0.1 percent of vehicle owners who have had the recall remedy performed have reported additional deceleration stalling issues. Ford also states that the PCM has to ''learn'' the new program and that any subsequent stalling would be temporary. To verify Ford's claim, ODI conducted a random survey of 20 complainants who had the remedy performed on their vehicles and who experienced a subsequent stalling event. ODI found that most of them had isolated stalling problems, supporting Ford's allegation

that the PCM must ''learn'' the new program.

In addition, in a phone conversation with ODI, the petitioner stated that a Ford engineer found a faulty ignition switch as the cause of the stalling in her vehicle. Thus, there is no evidence at this time to suggest that the recall remedy is inadequate.

For the foregoing reasons, further expenditure of the agency's investigative resources on the issues raised by the petition does not appear to be warranted. Therefore, the petition is denied.

Authority: 49 U.S.C. 30120(e); delegations of authority at CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04–19568 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–18782]

Notice of Receipt of Petition for Decision That Nonconforming 2002 Honda CRV Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2002 Honda CRV multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002 Honda CRV multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is September 27, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. 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.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background:

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

US SPECS of Aberdeen, Maryland (Registered Importer 03–321) has petitioned NHTSA to decide whether nonconforming 2002 Honda CRV multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which US SPECS believes are substantially similar are 2002 Honda CRV multipurpose passenger vehicles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2002 Honda CRV multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

US SPECS submitted information with its petition intended to demonstrate that non-U.S. certified 2002 Honda CRV multipurpose passenger vehicles as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2002 Honda CRV multipurpose passenger vehicles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* modification of the speedometer to read in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model headlamps, front side marker lamps, taillamp assemblies that incorporate rear side marker lamps, a high-mounted stoplamp assembly, and front and rear side reflex reflectors.

Standard No. 111 *Rearview Mirrors:* installation of U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a key warning buzzer, if the vehicles are not already so equipped.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* inspection of all vehicles, and

reprogramming and rewiring the systems, as required, to ensure compliance with the standard.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* Tire placard must be installed to ensure compliance with the standard.

Standard No. 201 *Occupant Protection in Interior Impact:* inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model interior trim components that are necessary to comply with the standard's upper interior impact requirements.

Standard No. 208 *Occupant Crash Protection:* (a) Inspection of all vehicles and replacement of any non U.S.-model seat belts, air bag control units, air bags, and knee bolsters with U.S.-model components on vehicles that are not already so equipped; and (b) installation of a warning buzzer which is wired to the seat belt latches to ensure that the seat belt warning system activates in the proper manner.

The petitioner states that the passive restraint system used in these vehicles consists of dual front airbags.

The petitioner also states that the vehicles have combination lap and shoulder belts at the outboard front seating positions as well as at the rear outboard seating positions. These manual systems are automatic self-tensioning and are released by means of a single red push-button.

Standard No. 209 *Seat Belt Assemblies:* Inspection of all vehicles and replacement of non U.S.-model seat belt assemblies with U.S.-model components.

Standard No. 225 *Child Restraint Anchorage Systems:* Inspection of all vehicles and installation of U.S.-model components, on vehicles that are not already so equipped, to ensure compliance with the standard.

Standard No. 301 *Fuel System Integrity:* Inspection of all vehicles and installation of U.S.-model components, on vehicles that are not already so equipped, to ensure compliance with the standard.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–19569 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemption to facilitate processing.

DATES: Comments must be received on or before September 13, 2004.

ADDRESS COMMENTS TO: Record Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If Confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of exemption is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5517(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on August 23, 2004.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions & Approvals.

MODIFICATION EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of exemption	Nature of exemption therefo
8627–M		Nalco Energy Services, L.P., Naperville, IL.	49 CFR 173.201; 173.202; 173.203.	8627	To modify the exemption to authorize the transportation of additional Class 3 and Class 8 materials in non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis.

MODIFICATION EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of exemption	Nature of exemption therefo
8939–M		Hollice Clark Truck Fabrication, Inc., Odessa, TX.	49 CFR 173.201; 173.202; 173.203.	8939	To modify the exemption to authorize the transportation of additional Class 3 materials in non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis.
9462–M		Aztec Metal Fabrication, Odessa, TX.	49 CFR 173.201; 173.202; 173.203.	9462	To modify the exemption to authorize the transportation of additional Class 3 materials in non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis.
12800–M	RSPA–0110317	U.S. Department of Energy, Germantown, MD.	49 CFR 173.411(b)(2).	12800	To modify the exemption to provide relief from certain marking requirements to be used on rail cars transporting certain Class 7 materials.
13282–M	RSPA–03–16054	ConocoPhillips Alaska, Inc., Anchorage, AK.	49 CFR 173.35; 173.242(c) & (d).	13282	To modify the exemption to authorize the use of 55-gallon UN Standard 1H1 plastic drums for the transportation of Class 8 materials which exceed the quantity limitation when shipped by cargo aircraft only.
13552–M	RSPA–04–17541	Astaris LLC, Lawrence, KS.	49 CFR 173.188	13552	To reissue the exemption originally issued on an emergency basis for the transportation of a Division 4.2 material, under water, in alternative packaging.
13556–M	RSPA–04–17727	Stericycle, Inc., dba Bio Systems, Inc. Lake Forest, IL.	49 CFR 172.302(c); 173.197(d).	13556	To reissue exemption originally issued on an emergency basis for the transportation of Division 6.2 materials in non-DOT specification rigid plastic sharps containers fitted into a custom designed wheeled rack.
13596–M		Honeywell International Inc., Minneapolis, MN.	49 CFR 173.301(f)(5)	13596	To reissue the exemption originally issued on an emergency basis for the transportation of DOT Specification 3E cylinders that are over 12 inches in length without pressure relief devices.

[FR Doc. 04–19570 Filed 8–26–04; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Application for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before September 27, 2004.

ADDRESSES: Record Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If Confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington DC or at *http://dms.dot.gov*.

This notice of receipt of application for modification of exemption is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

NEW EXEMPTION

Application number	Docket number	Applicant	Regulation(s) affected	Nature of exemption thereof
13736–N	RSPA–2004–18890	Conoco Phillips, Anchorage, AK	49 CFR 172.101 Table, Col (9B)	To authorize the transportation in commerce of 350-gallon bulk containers for use in transporting certain Class 3 hazardous materials. (mode 4)

NEW EXEMPTION—Continued

Application number	Docket number	Applicant	Regulation(s) affected	Nature of exemption thereof
13737–N	RSPA–2004–18903	Sexton Can Company Inc., Decatur, AL	49 CFR 173.304a	To authorize the manufacture, mark, sale and use of a DOT Specification 2Q non-refillable cylinder for use in transporting Division 2.1 flammable gas.
13738–N	RSPA–2004–18889	Department of Energy, Washington, DC	49 CFR 173.420(a)(4)	To authorize the one-time, one-way transportation of uranium hexafluoride cylinders without overpacks. (mode 1)
13756–N	RSPA–2004–18888	Ultracore Corp., Park Ridge, IL	49 CFR Subparts D, E and F of Part 172; 173.24(c) and Subparts E and F of Part 173	To authorize the transportation in commerce of a specially designed device consisting of a metal tubing containing certain hazardous materials to be transported as essentially unregulated. (modes 1, 2, 3)
13757–N	RSPA–2004–18887	Maryland Army National Guard, Havre de Grace, MD	49 CFR 178.800	To authorize the transportation in commerce of non-specification IBCs for use in transporting certain Division 6.1 hazardous materials.
13776–N	RSPA–2004–18886	MHF Logistical Solutions, Cranberry Twp., PA	49 CFR 173.427(b)(4)	To authorize the transportation in commerce of gondola cars equipped with a specially designed liner to be classified as an IP–1 package for use in transporting Class 7 hazardous materials. (mode 2)

Issued in Washington, DC, on August 23, 2004.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

[FR Doc. 04–19571 Filed 8–26–04; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–03–15122; Notice 3]

Pipeline Safety: Grant of Waiver; Duke Energy Gas Transmission Company

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; grant of waiver.

SUMMARY: Duke Energy Gas Transmission Company (DEGT) petitioned the Research and Special Programs Administration's Office of Pipeline Safety (RSPA/OPS) for waiver of compliance with 49 CFR 192.611, which requires natural gas pipeline operators to confirm or revise the maximum allowable operating pressure (MAOP) of a pipeline after a change in class location. DEGT proposed an alternative set of risk control activities in lieu of a reduction in pressure or pressure testing of certain pipeline segments in Pennsylvania in areas that have changed from Class 1 to Class 2.

SUPPLEMENTARY INFORMATION:

Background

In a September 13, 2002, letter, as supplemented by a letter dated February 28, 2003, DEGT requested a waiver of compliance with 49 CFR 192.611, which requires pipeline operators to confirm or revise the MAOP on their pipelines after a change in class location. DEGT identified changes from Class 1 to Class 2 in four gas transmission pipeline segments in Pennsylvania on DEGT's Lines 12 and 19, two parallel pipelines that are part of its Texas Eastern Pipeline System. DEGT proposed to conduct alternative risk control activities based on Integrity Management Program principles and requirements in lieu of compliance with 192.611 and requested an extension of the 18-month time limit to allow it to develop and propose the alternative activities. On June 11, 2003, RSPA/OPS published a notice in the **Federal Register** seeking comment on DEGT's request for an extension of time (68 FR 35051). No comments were received in response to this Notice. Following several consultations with RSPA/OPS, on October 7, 2003, DEGT presented its alternative technical proposal and asserted that the alternative risk control activities would provide a level of safety at least equivalent to that provided by compliance with the requirements of 192.611. Pursuant to RSPA/OPS' request, DEGT also provided information concerning the cause of a November 2, 2003, failure on DEGT's Line 15, a 30-inch pipeline running between Danville and Owingsville, Kentucky.

DEGT's Proposed Waiver

DEGT's waiver request involves four segments on its 24-inch Line 12 and its 30-inch Line 19 (the ''waiver segments''). The waiver segments were constructed between 1954 and 1963 and were hydrotested to at least 100% of the pipe's specified minimum yield strength (SMYS), except for 10 feet of pipe on the Bechtelsville compressor discharge line that was tested to 90% SMYS. DEGT identified the waiver segments and the areas within each segment that have changed from Class 1 to Class 2 as follows:

1. *Entriken Compressor Station Discharge (Mile Post (MP) 84.02–110.92)*
   Line 12: MP 103.27–104.13.
   Line 19: MP 103.28–104.14.
2. *Perulack Compressor Station Discharge (MP 110.94–138.35)*
   Line 12: MP 128.02–128.28; MP 128.43–128.49; MP 131.24–131.56; and MP 132.06–132.36.
   Line 19: MP 128.00–128.28; MP 128.43–128.48; MP 131.25–131.42; MP 131.51–131.57; and MP 132.05–132.35.
3. *Bernville Compressor Station Discharge (MP 194.17–223.52)*
   Line 12: MP 201.11–201.53.
   Line 19: MP 201.11–201.52.
4. *Bechtelsville Compressor Station Discharge (MP 223.53–263.39)*
   Line 12: MP 228.13–228.28; MP 251.45–251.81; MP 259.59–259.89; and MP 260.89–261.28.
   Line 19: MP 228.18–228.28; MP 251.47–251.81; MP 260.17–260.17; and MP 261.00–261.57.

DEGT requested that the waiver be immediately applicable to the specified areas within each of the waiver segments where the class location has changed. DEGT further requested that the waiver be applicable to any Class 1

pipe that changes from Class 1 to Class 2 in the future anywhere within the four waiver segments.

DEGT presented the following justifications for its waiver request:

• Under its risk management program, DEGT has verified the integrity of the pipe in all four waiver segments by conducting in-line inspections (ILIs). DEGT first inspected the pipelines in 1986 using Tuboscope's conventional magnetic flux leakage (MFL) tool. Between 1996 and 2002, DEGT performed a second inspection of these lines using Tuboscope's conventional MFL tool and Tuboscope's high-resolution MFL tool.

• DEGT inspected and evaluated the condition of the pipe coating and evaluated the cathodic protection current demands on each of the pipelines. DEGT reported that the coatings were in good condition and that the cathodic protection systems were not experiencing excessive current demands.

• DEGT contends that the proposed alternative risk control activities would provide a margin of safety and environmental protection that equals or exceeds that of the measures required under 192.611.

• Granting the waiver would avoid the delivery interruptions, supply shortages, and costs associated with excavating and replacing the pipe in the specified areas.

• The proposed alternative risk control activities would benefit the entire length of the four waiver segments, as opposed to only the limited portions associated with the current class changes.

On January 15, 2004, RSPA/OPS published a notice in the **Federal Register** requesting public comment on DEGT's waiver request and the proposed alternative risk control activities (69 FR 2386). No comments were received in response to this Notice.

Grant of Waiver

Based on DEGT's justifications and because DEGT will conduct alternative risk control activities, RSPA/OPS finds that a waiver is not inconsistent with pipeline safety. Therefore, DEGT's request for waiver of the requirements of 192.611 for changes from Class 1 to Class 2 within the Entriken, Perulack, Bernville, and Bechtelsville segments of Lines 12 and 19 is granted on the condition that DEGT complies with the following requirements and conducts the following activities on schedule:

1. In-line inspections must have been conducted on all site(s) covered by this waiver at least twice using a magnetic flux leakage (MFL) tool capable of detecting corrosion anomalies;

2. All actionable anomalies within the waiver site(s) must have either been remediated, or scheduled to be investigated and if necessary subsequently remediated, in accordance with ASME B31.8S and DEGT's Pipeline Repair Procedures.

3. For sites within the waiver segments changing from Class 1 to Class 2 in the future, DEGT must provide notification to RSPA/OPS prior to applying the waiver and a schedule of any remedial measures to be performed on future waiver sites must be submitted in advance to RSPA/OPS headquarters and the Eastern Regional Office;

4. For future sites covered by this waiver, DEGT must use the tools and techniques developed through the activities described in the waiver request and associated submissions involving the identification, classification, and possible remediation of dents;

5. The waiver sites must pass a hydrostatic test to a pressure of at least 125% of the MAOP of the pipeline. DEGT must make available to RSPA/OPS a report on all hydrostatic test failures experienced at this test pressure;

6. Subsequent in-line inspections for the waiver sites must be scheduled in accordance with the re-inspection criteria developed under Item No. 5 in Calendar Year 2004;

7. The waiver sites must be in compliance with ASME B31.8S criteria for stress corrosion cracking (SCC) site identification and site investigation/testing (including any additional criteria developed in conjunction with SCC activities under Item No. 7 in Calendar Year 2004);

8. All pipeline sites covered under this waiver must conform to the required maximum reassessment intervals specified in 192.939; and

9. DEGT must provide the RSPA/OPS' Eastern Region with sufficient notice to enable RSPA/OPS staff to attend and participate in all risk assessment activities.

Schedule of activities to maintain the pipeline integrity on the waiver segments—

In Calendar Year 2003

1. Conduct a close-interval survey on one line in the Perulack segment to support the development of confirmatory direct assessment protocols;

2. Conduct a direct current voltage gradient (DCVG) survey on one line in the Perulack segment (same line as Item No. 1 above) to support external corrosion direct assessment (ECDA) validations;

In Calendar Year 2004

3. Conduct a high-resolution MFL tool run for the Bechtelsville segment, Line 12;

4. Conduct high-resolution geometry tool runs on the Entriken segment, Line 19; the Perulack segment, Line 19; and the Bechtelsville segment, Line 12;

5. Develop criteria and a decision tree for determination of in-line inspection (ILI) re-inspection interval;

6. Develop calibration and validation methodology and decision tree for ILI that incorporates API 1163 (currently under development);

7. Develop a SCC management plan consistent with ASME B31.8S that includes hydrostatic test criteria, site selection criteria, and SCC excavation criteria;

8. Develop an investigation strategy for topside dents and best practice responses to topside dents caused by third party damage;

9. Provide site and operating support for the Pipeline Research Council International, Inc. (PRCI) Compendium of Best Practices and Emerging Technologies for the prevention and detection of outside damage to pipeline with P–PIC that will develop a user guide for outside force damage technologies;

10. Develop a Web site accessible by RSPA/OPS on waiver-related sites and data. Provide public access to the website as needed to support the application of API RP 1162;

11. Deploy acoustic monitoring technology in conjunction with a GTI/Battelle research project at a site to be determined for a data gathering test period of one year;

In Calendar Year 2005

12. Overlay the high-resolution MFL data with the high-resolution geometry tool run data on the Entriken segment, Line 19; the Perulack segment, Line 19; and the Bechtelsville segment, Line 12. Overlay available hydrostatic test data from the Bechtelsville segment Lines 12 and 19 with identified dents. Overlays will be used in an effort to refine dent remediation criteria; and

13. Develop criteria for safe in service investigation of dents.

In addition to the above requirements, DEGT will adhere to the following reporting requirements as a condition of this grant of waiver:

Within three months following approval of a class location waiver and annually thereafter, the operator will be required to report the following:

1. Define the economic benefit to the company. This should address both the cost avoided from not replacing the pipe as well as the added costs of the inspection program (required for the initial report only);

2. The results of any ILI or direct assessments performed within the inspection area containing the waiver location(s) during the previous year;

3. Any new integrity threats identified within the inspection area containing the waiver location(s) during the previous year;

4. Any encroachment in the inspection area including the waiver location(s), including new residences (by number) or areas of public congregation;

5. Any incidents associated with the inspection area containing the waiver location(s) that occurred during the previous year. (both reportable and non reportable);

6. Any leaks on the pipeline in the inspection area containing the waiver location(s) that occurred during the previous year. (both reportable and non reportable);

7. All repairs on the pipeline in the inspection area containing the waiver location(s) made during the previous year;

8. On-going damage prevention initiatives on the pipeline in the inspection area containing the waiver location(s) and a discussion on its success; and

9. Any mergers, acquisitions, transfers of assets, or other events affecting the regulatory responsibility of the company operating the pipeline to which the waiver applies.

10. To the extent possible, describe in the first annual report the benefit to the public in terms of energy availability. This should address the benefit of avoided disruptions as a consequence of pipe replacement and the benefit of maintaining system capacity.

Authority: 49 App. U.S.C. 60118(c) and 2015; and 49 CFR 1.53.

Issued in Washington, DC, on August 23, 2004.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 04–19572 Filed 8–26–04; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Ex Parte No. 333]

Sunshine Act Meeting

TIME AND DATE: 10 a.m., August 31, 2004.

PLACE: The Board's Hearing Room, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

STATUS: The Board will meet to discuss among themselves the following agenda items. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE CONSIDERED: STB Finance Docket No. 27590 (Sub–No. 3), *TTX Company, et al.—Application for Approval of Pooling of Car Service with Respect to Flatcars.*

STB Docket No. 42054, *PPL Montana, LLC* v. *The Burlington Northern and Santa Fe Railway Company.*

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565–1596 FIRS: 1–800–877–8339.

Dated: August 24, 2004.

Vernon A. Williams,

Secretary.

[FR Doc. 04–19680 Filed 8–25–04; 11:12 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34534]

Columbia & Reading Railway Co.—Acquisition Exemption—Frank Sahd Salvage Center, Inc.

Columbia & Reading Railway Co. (CRRC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Frank Sahd Salvage Center, Inc. (Sahd Salvage) approximately 2.5 miles of rail line, from milepost 39.3 in the Borough of Columbia to milepost 37.2 in West Hempfield Township in Lancaster County, PA. Sahd Salvage has agreed to transfer the rail line to CRRC so that it may develop common carrier rail operations, which will be provided by a to be determined third party. CRRC is a corporate affiliate of Sahd Salvage.

CRRC certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

CRRC states that the parties intended to consummate the transaction on or about August 9, 2004, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34534, must be filed with the Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Jeffrey O. Moreno, Esq, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on the Board's Web site at *http://www.stb.dot.gov*.

Decided: August 20, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–19624 Filed 8–26–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 20, 2004.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 27, 2004 to be assured of consideration.

Departmental Offices/Terrorism Risk Insurance Program

OMB Number: 1505–0200.

Form Numbers: TRIP 01 and TRIP 02.

Type of Review: Extension.

Title: Terrorism Risk Insurance Program Loss Reporting.

Description: Information collection made necessary by the Terrorism Risk Insurance Act of 2002 and Treasury implementing regulations to pay Federal share to commercial property and casualty insurers for terrorism losses.

Respondents: Business or other for-profit, not-for-profit institutions, State, local, or tribal government.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper: TRIP 01: 60 minutes, TRIP 02: 90 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 4,200 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 04–19597 Filed 8–26–04; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held September 22 and 23, 2004.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on September 22 and 23, 2004, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 694–1861 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held on September 22 and 23, 2004, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

David B. Robison,

Chief, Appeals.

[FR Doc. 04–19643 Filed 8–26–04; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 69, No. 166

Friday, August 27, 2004

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 DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Northern Colorado Water Conservancy District's Northern Integrated Supply Project

Correction

In notice document 04–19117 beginning on page 51640 in the issue of August 20, 2004, make the following corrections:

1. On page 51640, in the third column, under the **DATES** heading, in paragraph 1., the date ''September 20, 3004'' should read, ''September 20, 2004.''

2. On page 51641, in the second column, in the first line, ''4232(2)(c)'' should read, ''4332(2)(c).''

[FR Doc. C4–19117 Filed 8–26–04; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability of the Draft Environmental Impact Statement/ Environmental Impact Report for the Proposed Prado Basin Water Supply, Riverside and San Bernardino Counties, CA

Correction

In notice document 04–19116 beginning on page 51639 in the issue of Friday, August 20, 2004, make the following corrections:

1. On page 51639, in the third column, under **FOR FURTHER INFORMATION CONTACT**, in the fifth and sixth lines, ''(213) 451–3860'' should read ''(213) 452–3860.''

2. On the same page, in the same column, under the same heading, in the 10th line, ''(213) 451–3811'' should read ''(213) 452–3811.''

[FR Doc. C4–19116 Filed 8–26–04; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

[DA 04–1553]

Wireless Telecommunications Bureau Lists Private Land Mobile Licenses Cancelled as a Result of the Spectrum Audit

Correction

In notice document 04–16086 beginning on page 43144 in the issue of Monday, July 19, 2004, correct the docket number in the document heading to read as set forth above.

[FR Doc. C4–16086 Filed 8–26–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
August 27, 2004

Part II

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4901–N–35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Burruss, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988, Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Heather Ranson, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Army: Ms. Julie Jones-Conte, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM-MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 602–5180; (this is not a toll-free number).

Dated: August 19, 2004.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 8/27/04

Suitable/Available Properties

Buildings (by State)

Alaska

Bldgs. 09100, 09104–09106
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020158
Status: Unutilized
Comment: Various sq. ft., concrete, most recent use—hazard bldg., off-site use only

5 Bldgs.
Fort Richardson
09108, 09110–09112, 09114
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020159
Status: Unutilized
Comment: Various sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldgs. 09128, 09129
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020160
Status: Unutilized
Comment: Various sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldgs. 09151, 09155, 09156
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020161
Status: Unutilized
Comment: Various sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldg. 09158
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020162
Status: Unutilized
Comment: 672 sq. ft., most recent use—storage shed, off-site use only

Bldgs. 09160–09162
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020163
Status: Unutilized
Comment: 11520 sq. ft., concrete, most recent use—NCO–ENL FH, off-site use only

Bldgs. 09164, 09165
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200020164
Status: Unutilized
Comment: 2304 & 2880 sq. ft., most recent use—storage, off-site use only

Bldg. 10100
Fort Richardson
Ft. Richardson AK 99505–6500

Landholding Agency: Army
Property Number: 21200020165
Status: Unutilized
Comment: 4688 sq. ft., concrete, most recent use—hazard bldg., off-site use only

Bldg. 00390
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030067
Status: Excess
Comment: 13,632 sq. ft., off-site use only

Bldgs. 01200, 01202
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030068
Status: Excess
Comment: 4508 & 6366 sq. ft., most recent use—hazard bldg., off-site use only

Bldgs. 01205–01207
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030070
Status: Excess
Comment: Various sq. ft., most recent use—hazard bldg., off-site use only

Bldgs. 01208, 01210, 01212
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030071
Status: Excess
Comment: Various sq ft., most recent use—hazard bldg., off-site use only

Bldgs. 01213, 01214
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030072
Status: Excess
Comment: 11964 & 13740 sq. ft., most recent use—transient UPH, off-site use only

Bldgs. 01218, 01230
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030073
Status: Excess
Comment: 480 & 188 sq. ft., most recent use—hazard bldgs., off-site use only

Bldgs. 01231, 01232
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030074
Status: Excess
Comment: 458 & 4260 sq. ft., most recent use—hazard bldgs., off-site use only

Bldg. 01234
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030075
Status: Excess
Comment: 615 sq. ft., most recent use—admin., off-site use only

Bldg. 01237
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030076
Status: Excess
Comment: 408 sq. ft., most recent use—fuel/pol bldg., off-site use only

Bldg. 01272
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030077
Status: Excess
Comment: 308 sq. ft., most recent use—storage, off-site use only

Bldg. 08109
Fort Richardson
Ft. Richardson AK 99505–
Landholding Agency: Army
Property Number: 21200030080
Status: Excess
Comment: 1920 sq. ft., most recent use—storage, off-site use only

Armory
NG Noorvik
Noorvik AK 99763–s
Landholding Agency: Army
Property Number: 21200110075
Status: Unutilized
Comment: 1200 sq. ft., most recent use—armory, off-site use only

Bldg. 00229
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200120085
Status: Excess
Comment: 13,056 sq. ft., off-site use only

Bldg. 00001
Kiana Natl Guard Armory
Kiana AK 99749–
Landholding Agency: Army
Property Number: 21200340075
Status: Excess
Comment: 1200 sq. ft., butler bldg., needs repair, off-site use only

Arizona

Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21199310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 21199420346
Status: Unutilized
Comment: 4103 sq. ft., 2-story, needs major rehab, off-site use only

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 21199520073
Status: Underutilized
Comment: 3789 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos, off-site use only

Bldg. 00500
Yuma Proving Ground
Yuma AZ 85365–9498
Landholding Agency: Army
Property Number: 21200340076
Status: Unutilized
Comment: 4171 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—training, off-site use only

California

Bldgs. 18026, 18028
Camp Roberts
Monterey CA 93451–5000
Landholding Agency: Army
Property Number: 21200130081
Status: Excess
Comment: 2024 sq. ft. & 487 sq. ft., concrete, poor condition, off-site use only

Bldg. 00726
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410082
Status: Unutilized
Comment: 4100 sq. ft., presence of asbestos, potential lead-base paint, most recent use—vehicle maint., off-site use only

Bldg. 00736
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410083
Status: Unutilized
Comment: 250 sq. ft., presence of asbestos, potential lead-base paint, most recent use—storage, off-site use only

Bldg. 00776
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410084
Status: Unutilized
Comment: 3060 sq. ft., presence of asbestos, potential lead-base paint, most recent use—storage, off-site use only

Bldg. 00930
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410085
Status: Unutilized
Comment: 26,635 sq. ft., presence of asbestos, potential lead-base paint, most recent use—admin., off-site use only

Bldg. 00934
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410086
Status: Unutilized
Comment: 1275 sq. ft., presence of asbestos, potential lead-base paint, most recent use—storage, off-site use only

Bldg. 00938
Mare Island USAR Ctr
Vallejo Co: Solano CA 94592–
Landholding Agency: Army
Property Number: 21200410087
Status: Unutilized
Comment: 1550 sq. ft., presence of asbestos, potential lead-base paint, most recent use—classroom, off-site use only

Colorado

Bldg. F–107
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130082
Status: Unutilized

Comment: 10,126 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–108
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130083
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–209
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130084
Status: Unutilized
Comment: 400 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–217
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130085
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only

Bldg. T–218
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130086
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only

Bldg. T–220
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130087
Status: Unutilized
Comment: 690 sq. ft., poor condition, possible asbestos/lead paint, most recent use—heat plant, off-site use only

Bldg. T–6001
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130088
Status: Unutilized
Comment: 4372 sq. ft., poor condition, possible asbestos/lead paint, most recent use—vet clinic, off-site use only

Bldg. S6263
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310051
Status: Unutilized
Comment: 24,902 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—offices, off-site use only

Bldg. S6265
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310052
Status: Unutilized
Comment: 19,499 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—child development center, off-site use only

Bldg. S6266
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310053
Status: Unutilized
Comment: 27,286 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. S6267
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310054
Status: Unutilized
Comment: 20,075 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—child development center, off-site use only

Bldg. S6286
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310055
Status: Unutilized
Comment: 13,128 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—armory, off-site use only

Bldg. T–211
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340080
Status: Unutilized
Comment: 4172 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. S6250
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340083
Status: Unutilized
Comment: 22,125 sq. ft., presence of asbestos/lead paint, most recent use—armory, off-site use only

Bldg. S6268
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340085
Status: Unutilized
Comment: 840 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 25, 26, 27
Pueblo Chemical Depot
Pueblo CO 81006–
Landholding Agency: Army
Property Number: 21200420178
Status: Unutilized
Comment: 1311 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 00127
Pueblo Chemical Depot
Pueblo CO 81006–
Landholding Agency: Army
Property Number: 21200420179
Status: Unutilized
Comment: 8067 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Georgia

Bldg. 2285
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 1252, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 4881, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 4963, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 2396, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only

Bldg. 4882, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220727
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4977, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220736
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, need repairs, off-site removal only

Bldg. 4944, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only

Bldg. 4960, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4969, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220753
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4884, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220762
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4964, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220763
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4966, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220764
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4965, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only

Bldg. 4945, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only

Bldg. 4979, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, need repairs, off-site removal only

Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 11813
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410269
Status: Unutilized
Comment: 70 sq. ft.; 1 story; metal; needs rehab.; most recent use—storage; off-site use only

Bldg. 21314
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410270
Status: Unutilized
Comment: 85 sq. ft.; 1 story; needs rehab.; most recent use—storage; off-site use only

Bldg. 12809
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410272
Status: Unutilized
Comment: 2788 sq. ft.; 1 story; wood; needs rehab.; most recent use—maintenance shop; off-site use only

Bldg. 10306
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410273
Status: Unutilized
Comment: 195 sq. ft.; 1 story; wood; most recent use—oil storage shed; off-site use only

Bldg 4051, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199520175
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 322
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720156
Status: Unutilized
Comment: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 1737
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720161
Status: Unutilized
Comment: 1500 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 2593
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720167
Status: Unutilized
Comment: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720168
Status: Unutilized
Comment: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720184
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—vehicle maint. shop, off-site use only

8 Bldgs.
Fort Benning
4700–4701, 4704–4707, 4710–4711
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720189
Status: Unutilized
Comment: 6433 sq. ft. each, needs rehab, most recent use—unaccompanied personnel housing, off-site use only

Bldg. 4714
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720191
Status: Unutilized
Comment: 1983 sq. ft., needs rehab, most recent use—battalion headquarters bldg., off-site use only

Bldg. 4702
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720192
Status: Unutilized
Comment: 3690 sq. ft., needs rehab, most recent use—dining facility off-site use only

Bldgs. 4712–4713
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720193
Status: Unutilized
Comment: 1983 sq. ft. and 10270 sq. ft., needs rehab, most recent use—company headquarters bldg., off-site use only

Bldg. 305
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810268
Status: Unutilized
Comment: 4083 sq. ft., most recent use—recreation center, off-site use only

Bldg. 318
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810269
Status: Unutilized
Comment: 374 sq. ft., poor condition, most recent use—maint. shop, off-site use only

Bldg. 1792
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810274
Status: Unutilized

Comment: 10,200 sq. ft., most recent use—storage, off-site use only

Bldg. 1836
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810276
Status: Unutilized
Comment: 2998 sq. ft., most recent use—admin., off-site use only

Bldg. 4373
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810286
Status: Unutilized
Comment: 409 sq. ft., poor condition, most recent use—station bldg. off-site use only

Bldg. 4628
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810287
Status: Unutilized
Comment: 5483 sq. ft., most recent use—admin., off-site use only

Bldg. 92
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830278
Status: Unutilized
Comment: 637 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2445
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830279
Status: Unutilized
Comment: 2385 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldg. 4232
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830291
Status: Unutilized
Comment: 3720 sq. ft., needs rehab, most recent use—maint. bay, off-site use only

Bldg. 39720
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199930119
Status: Unutilized
Comment: 1520 sq. ft., concrete block, possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. 492
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930120
Status: Unutilized
Comment: 720 sq. ft., most recent use—admin/maint, off-site use only

Bldg. 880
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930121
Status: Unutilized
Comment: 57,110 sq. ft., most recent use—instruction, off-site use only

Bldg. 1370
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930122
Status: Unutilized
Comment: 5204 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2288
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930123
Status: Unutilized
Comment: 2481 sq. ft., most recent use—admin., off-site use only

Bldg. 2290
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930124
Status: Unutilized
Comment: 455 sq. ft., most recent use—storage, off-site use only

Bldg. 2293
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930125
Status: Unutilized
Comment: 2600 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2297
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930126
Status: Unutilized
Comment: 5156 sq. ft., most recent use—admin

Bldg. 2505
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930127
Status: Unutilized
Comment: 10,257 sq. ft., most recent use—repair shop, off-site use only

Bldg. 2508
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930128
Status: Unutilized
Comment: 2434 sq. ft., most recent use—storage, off-site use only

Bldg. 2815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930129
Status: Unutilized
Comment: 2578 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 3815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930130
Status: Unutilized
Comment: 7575 sq. ft., most recent use—storage, off-site use only

Bldg. 3816
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930131
Status: Unutilized
Comment: 7514 sq. ft., most recent use—storage, off-site use only

Bldg. 5886
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930134
Status: Unutilized
Comment: 67 sq. ft., most recent use—maint/storage, off-site use only

Bldgs. 5974–5978
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
Comment: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930137
Status: Unutilized
Comment: 2016 sq. ft., most recent use—storage, off-site use only

Bldg. T–1003
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030085
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—admin., off-site use only

Bldgs. T–1005, T–1006, T–1007
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030086
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1015, T–1016, T–1017
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030087
Status: Excess
Comment: 7496 sq ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1018, T–1019
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030088
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1020, T–1021
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army

Property Number: 21200030089
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. T–1022
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030090
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—supply center, off-site use only

Bldg. T–1027
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030091
Status: Excess
Comment: 9024 sq ft., poor condition, most recent use—storage, off-site use only

Bldg. T–1028
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030092
Status: Excess
Comment: 7496 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1035, T–1036, T–1037
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030093
Status: Excess
Comment: 1626 sq ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1038, T–1039
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030094
Status: Excess
Comment: 1626 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1040, T–1042
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030095
Status: Excess
Comment: 1626 sq. ft., poor condition, most recent use—storage, off-site use only

Bldgs. T–1086, T–1087, T–1088
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030096
Status: Excess
Comment: 7680 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. 223
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040044
Status: Unutilized
Comment: 21,556 sq. ft., most recent use—gen. purpose.

Bldg. 228
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040045
Status: Unutilized
Comment: 20,220 sq. ft., most recent use—gen. purpose.

Bldg. 2051
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040046
Status: Unutilized
Comment: 6077 sq. ft., most recent use—storage.

Bldg. 2053
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040047
Status: Unutilized
Comment: 14,520 sq. ft., most recent use—storage.

Bldg. 2677
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21200040048
Status: Unutilized
Comment: 19,326 sq. ft., most recent use—maint. shop.

Bldg. 02301
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200140075
Status: Unutilized
Comment: 8484 sq. ft., needs major rehab, potential asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T0130
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230041
Status: Excess
Comment: 10,813 sq. ft., off-site use only

Bldg. T0157
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230042
Status: Excess
Comment: 1440 sq. ft., off-site use only

Bldg. T0251
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230043
Status: Excess
Comment: 27,254 sq. ft., off-site use only

Bldgs. T291, T292
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230044
Status: Excess
Comment: 5220 sq. ft. each, off-site use only

Bldg. T0295
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230045
Status: Excess
Comment: 5220 sq. ft., off-site use only

Bldg. T0470
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230046
Status: Excess
Comment: 27,254 sq. ft., off-site use only

Bldg. T1191
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230047
Status: Excess
Comment: 9386 sq. ft., off-site use only

Bldg. T1192
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230048
Status: Excess
Comment: 3992 sq. ft., off-site use only

Bldgs. 00064, 00065
Camp Frank D. Merrill
Dahlonega Co: Lumpkin GA 30597–
Landholding Agency: Army
Property Number: 21200330108
Status: Unutilized
Comment: 648 sq. ft. each, concrete block, most recent use—water support treatment bldg., off-site use only

Bldg. 00232
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420007
Status: Excess
Comment: 2436 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. P1450
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420027
Status: Excess
Comment: 100,230 sq. ft., most recent use—health clinic, off-site use only

Bldg. 4151
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420032
Status: Excess
Comment: 3169 sq. ft., most recent use—battle lab, off-site use only

Bldg. 4152
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420033
Status: Excess
Comment: 721 sq. ft., most recent use—battle lab, off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420034
Status: Excess
Comment: 3148 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 8771
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420044
Status: Excess
Comment: 972 sq. ft., most recent use—RH/TGT house, off-site use only

Bldg. 9028
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420049
Status: Excess
Comment: 54 sq. ft., most recent use—sew/wst wtr treatment, off-site use only

Bldg. 9029
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420050
Status: Excess
Comment: 7356 sq. ft., most recent use—heat plant bldg., off-site use only

Bldg. 11370
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420051
Status: Excess
Comment: 9602 sq. ft., most recent use—nco/enl bldg., off-site use only

Bldg. 00464
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200420180
Status: Unutilized
Comment: 2200 sq. ft., most recent use—recreation, off-site use only

Bldg. T924
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420194
Status: Excess
Comment: 9360 sq. ft., most recent use—warehouse, off-site use only

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Landholding Agency: Army
Property Number: 21199030324
Status: Unutilized
Comment: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Bldg. T–337
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 21199640203
Status: Unutilized
Comment: 132 sq. ft., most recent use—storage, off-site use only

Bldg. 06508
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 21200220106
Status: Unutilized
Comment: 1140 sq. ft., most recent use—office, off-site use only

5 Bldgs.
Schofield Barracks
3900, 3904, 3905, 3913, 3916
Wahiawa Co: Honolulu HI 96857–
Landholding Agency: Army
Property Number: 21200410093
Status: Unutilized
Comment: 7393 sq. ft. each, concrete, most recent use—housing, off-site use only

4 Bldgs.
Schofield Barracks
3903, 3908, 3909, 3910
Wahiawa Co: Honolulu HI 96857–
Landholding Agency: Army
Property Number: 21200410094
Status: Unutilized
Comment: 5820 sq. ft. each, concrete, most recent use—housing, off-site use only

4 Bldgs.
Schofield Barracks
3917, 3924, 3935, 3941
Wahiawa Co: Honolulu HI 96857–
Landholding Agency: Army
Property Number: 21200410095
Status: Unutilized
Comment: 4470 sq. ft. each, concrete, most recent use—housing, off-site use only

14 Bldgs.
Schofield Barracks
Wahiawa Co: Honolulu HI 96857–
Location: 3918–3919, 3921–3923, 3925–3929, 3931, 3933, 3937, 3939
Landholding Agency: Army
Property Number: 21200410096
Status: Unutilized
Comment: 4820 sq. ft. each, concrete, most recent use—housing, off-site use only

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 21199620666
Status: Unutilized
Comment: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only

Bldg. AR112
Sheridan Reserve
Arlington Heights IL 60052–2475
Landholding Agency: Army
Property Number: 21200110081
Status: Unutilized
Comment: 1000 sq. ft., off-site use only

Louisiana

Bldg. 8423, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640528
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Maryland

Bldg. 2837
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200120101
Status: Unutilized
Comment: 7670 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 0459B
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120106
Status: Unutilized
Comment: 225 sq. ft., poor condition, most recent use—equipment bldg., off-site use only

Bldg. 00785
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120107
Status: Unutilized
Comment: 160 sq. ft., poor condition, most recent use—shelter, off-site use only

Bldg. E3728
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120109
Status: Unutilized
Comment: 2596 sq. ft., presence of asbestos/lead paint, most recent use—testing facility, off-site use only

Bldg. E5239
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120113
Status: Unutilized
Comment: 230 sq. ft., most recent use—storage, off-site use only

Bldg. E5317
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120114
Status: Unutilized
Comment: 3158 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. E5637
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120115
Status: Unutilized
Comment: 312 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 503
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130092
Status: Unutilized
Comment: 14,244 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only

Bldg. 8481
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130098
Status: Unutilized
Comment: 7718 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—heat plant, off-site use only

Bldg. 219
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140078
Status: Unutilized
Comment: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 229
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140079
Status: Unutilized
Comment: 2250 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 287
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140080
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 294
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140081
Status: Unutilized
Comment: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, off-site use only

Bldg. 949
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140083
Status: Unutilized
Comment: 2441 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 979
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140084
Status: Unutilized
Comment: 2331 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1007
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140085
Status: Unutilized
Comment: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 00546
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220109
Status: Unutilized
Comment: 5659 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 00939
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220110
Status: Unutilized
Comment: 8185 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 02207
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220112
Status: Unutilized
Comment: 6855 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 02271
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220114
Status: Unutilized
Comment: 10,080 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 04675
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200220115
Status: Unutilized
Comment: 1710 sq. ft., possible asbestos/lead paint, most recent use—rental store, off-site use only

Bldg. 2050A
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230051
Status: Unutilized
Comment: 200 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 2214
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230054
Status: Unutilized
Comment: 7740 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2217
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230055
Status: Unutilized
Comment: 7710 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—admin/warehouse, off-site use only

Bldg. 2253
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230056
Status: Unutilized
Comment: 18,912 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. 2275
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230057
Status: Unutilized
Comment: 10,080 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 2276
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230058
Status: Unutilized
Comment: 10,080 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 2273
Ft. George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200320105
Status: Unutilized
Comment: 54 sq. ft., most recent use—storage, off-site use only

Bldg. 2456
Ft. George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200320106
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—clinic, off-site use only

Bldg. 00375
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320107
Status: Unutilized
Comment: 64 sq. ft., most recent use—storage, off-site use only

Bldg. 0385A
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320110
Status: Unutilized
Comment: 944 sq. ft., off-site use only

Bldg. 00523
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320113
Status: Unutilized
Comment: 3897 sq. ft., most recent use—paint shop, off-site use only

Bldg. 00649
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320116
Status: Unutilized
Comment: 1079 sq. ft., most recent use—storage, off-site use only

Bldg. 00657
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320119
Status: Unutilized
Comment: 1048 sq. ft., most recent use—bunker, off-site use only

Bldg. 0700B
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320121
Status: Unutilized
Comment: 505 sq. ft., off-site use only

Bldg. 00768
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320123
Status: Unutilized
Comment: 97 sq. ft., most recent use—observation bldg., off-site use only

Bldg. 01113
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320128
Status: Unutilized
Comment: 1012 sq. ft., off-site use only

Bldgs. 01124, 01132
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320129
Status: Unutilized
Comment: 740/2448 sq. ft., most recent use—lab, off-site use only

Bldgs. 02373, 02378
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320130
Status: Unutilized
Comment: 8359 sq. ft., most recent use—training, off-site use only

Bldg. 03558
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320133
Status: Unutilized
Comment: 18,000 sq. ft., most recent use—storage, off-site use only

Bldg. 05262
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320136
Status: Unutilized
Comment: 864 sq. ft., most recent use—storage, off-site use only

Bldg. 05608
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320137
Status: Unutilized
Comment: 1100 sq. ft., most recent use—maint bldg., off-site use only

Bldg. E5108
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320147
Status: Unutilized
Comment: 5155 sq. ft., most recent use—recreation center, off-site use only

Bldg. E5483
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320148
Status: Unutilized
Comment: 2140 sq. ft., most recent use—vehicle storage, off-site use only

Bldg. E5645
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320150
Status: Unutilized
Comment: 548 sq. ft., most recent use—storage, off-site use only

Bldg. 2728
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 21200330109
Status: Unutilized
Comment: 4072 sq. ft., most recent use—storage, off-site use only

Bldg. 00435
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005
Landholding Agency: Army
Property Number: 21200330111
Status: Unutilized
Comment: 1191 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 0449A
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330112
Status: Unutilized
Comment: 143 sq. ft., needs rehab, most recent use—substation switch bldg., off-site use only

Bldgs. 00458, 00464
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330113
Status: Unutilized
Comment: 900/2647 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 0460
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330114
Status: Unutilized
Comment: 1800 sq. ft., needs rehab, most recent use—electrical EQ bldg., off-site use only

Bldg. 00914
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330118
Status: Unutilized
Comment: needs rehab, most recent use—safety shelter, off-site use only

Bldg. 00915
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330119
Status: Unutilized
Comment: 247 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 00931
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330120
Status: Unutilized
Comment: 1400 sq. ft., needs rehab, off-site use only

Bldg. 01189
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330126
Status: Unutilized
Comment: 800 sq. ft., needs rehab, most recent use—range bldg., off-site use only

Bldg. E1413
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330127
Status: Unutilized
Comment: needs rehab, most recent use—observation tower, off-site use only

Bldg. E2350A
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330132
Status: Unutilized
Comment: 325 sq. ft., need rehab, most recent use—oil storage, off-site use only

Bldg. 2456
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330133
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. E3175
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330134
Status: Unutilized
Comment: 1296 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

4 Bldgs.
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Location: E3224, E3228, E3230, E3232, E3234
Landholding Agency: Army
Property Number: 21200330135
Status: Unutilized
Comment: sq. ft. varies, needs rehab, most recent use—lab test bldgs., off-site use only

Bldg. E3241
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330136
Status: Unutilized
Comment: 592 sq. ft., needs rehab, most recent use—medical res bldg., off-site use only

Bldgs. E3269, E3270
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330138
Status: Unutilized
Comment: 200/1200 sq. ft., needs rehab, most recent use—flam. storage, off-site use only

Bldg. E3300
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330139
Status: Unutilized
Comment: 44,352 sq. ft., needs rehab, most recent use—chemistry lab, off-site use only

Bldg. E3335
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330144
Status: Unutilized
Comment: 400 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. E3360, E3362, E3464
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–

Landholding Agency: Army
Property Number: 21200330145
Status: Unutilized
Comment: 3588/236 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E3514
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330146
Status: Unutilized
Comment: 4416 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. E3517, E3525
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330147
Status: Unutilized
Comment: 1001/2175 sq. ft., needs rehab, most recent use—nonmet matl facility, off-site use only

Bldg. E3542
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330148
Status: Unutilized
Comment: 1146 sq. ft., needs rehab, most recent use—lab test bldg., off-site use only

Bldgs. 03554, 03556
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330149
Status: Unutilized
Comment: 18,000/9,000 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. E3863, E3864, E4415
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330150
Status: Unutilized
Comment: sq. ft. varies needs rehab, most recent use—admin., off-site use only

Bldg. E4420
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330151
Status: Unutilized
Comment: 14,997 sq. ft., needs rehab, most recent use—police bldg., off-site use only

Bldg. E4733
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330152
Status: Unutilized
Comment: 2252 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldg. E4734
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330153
Status: Unutilized
Comment: 1114 sq. ft., needs rehab, most recent use—private club, off-site use only

4 Bldgs.
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Location: E5005, E5049, E5050, E5051
Landholding Agency: Army
Property Number: 21200330154
Status: Unutilized
Comment: sq. ft. varies, needs rehab, most recent use—storage, off-site use only

Bldg. E5068
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330155
Status: Unutilized
Comment: 1200 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldgs. E5425, 05426
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330158
Status: Unutilized
Comment: 1363/3888 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 05447
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330160
Status: Unutilized
Comment: 2464 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. 05448, 05449
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330161
Status: Unutilized
Comment: 6431 sq. ft., needs rehab, most recent use—enlisted UHP, off-site use only

Bldg. 05450
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330162
Status: Unutilized
Comment: 2730 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. 05451, 05455
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330163
Status: Unutilized
Comment: 2730/6431 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 05453
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330164
Status: Unutilized
Comment: 6431 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. 05456, 05459, 05460
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330165
Status: Unutilized
Comment: 6431 sq. ft., needs rehab, most recent use—enlisted bldg., off-site use only

Bldgs. 05457, 05458
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330166
Status: Unutilized
Comment: 2730 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. E5609
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330167
Status: Unutilized
Comment: 2053 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5611
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330168
Status: Unutilized
Comment: 11,242 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

Bldg. E5634
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330169
Status: Unutilized
Comment: 200 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldgs. E5648, E5697
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330170
Status: Unutilized
Comment: 6802/2595 sq. ft., needs rehab, most recent use—lab test bldg., off-site use only

Bldg. E5654
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330171
Status: Unutilized
Comment: 21,532 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5779
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330172
Status: Unutilized
Comment: 174 sq. ft., needs rehab, most recent use—wash rack bldg., off-site use only

Bldgs. E5782, E5880
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330173
Status: Unutilized
Comment: 510/1528 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldg. E5854
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330174
Status: Unutilized
Comment: 5166 sq. ft., needs rehab, most recent use—eng/MTN bldg., off-site use only

Bldgs. E5870, E5890

Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330175
Status: Unutilized
Comment: 1192/11,279 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5942
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330176
Status: Unutilized
Comment: 2147 sq. ft., needs rehab, most recent use—igloo storage, off-site use only

Bldgs. E5952, E5953
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330177
Status: Unutilized
Comment: 100/24 sq. ft., needs rehab, most recent use—compressed air bldg., off-site use only

Bldgs. E7401, E7402
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330178
Status: Unutilized
Comment: 256/440 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. E7407, E7408
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330179
Status: Unutilized
Comment: 1078/762 sq. ft., needs rehab, most recent use—decon facility, off-site use only

Bldg. E7931
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330182
Status: Unutilized
Comment: needs rehab, most recent use—sewer treatment, off-site use only

Bldg. 8503
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410097
Status: Unutilized
Comment: 3801 sq. ft., concrete block, most recent use—office, off-site use only

Bldg. 8542
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410098
Status: Unutilized
Comment: 2372 sq. ft., most recent use—office, off-site use only

Bldg. 8611
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410100
Status: Unutilized
Comment: 38,490 sq. ft., concrete block, most recent use—barracks, off-site use only

Bldg. 00735
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420052
Status: Unutilized
Comment: 1448 sq. ft., most recent use—ordnance bldg., off-site use only

Bldg. 00739
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420053
Status: Unutilized
Comment: 3295 sq. ft., most recent use—storage, off-site use only

Bldg. 1145D
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420054
Status: Unutilized
Comment: 898 sq. ft., most recent use—storage, off-site use only

Bldg. 3070A
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420055
Status: Unutilized
Comment: 2299 sq. ft., most recent use—heat plant, off-site use only

Bldg. E5026
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420056
Status: Unutilized
Comment: 20,536 sq. ft., most recent use—storage, off-site use only

Bldg. 05261
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420057
Status: Unutilized
Comment: 10067 sq. ft., most recent use—maintenance, off-site use only

Bldg. E5809
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420058
Status: Unutilized
Comment: 69 sq. ft., most recent use—storage, off-site use only

Bldgs. 00733, 00734
Aberdeen Proving Grounds
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200430063
Status: Unutilized
Comment: 136 sq. ft. each, most recent use—ammo storage, off-site use only

Missouri

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420441
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead-base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420446
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead-base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 21199510115
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. 1650
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810311
Status: Unutilized
Comment: 1676 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820179
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820183
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

12 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 07036, 07050, 07054, 07102, 07400, 07401, 08245, 08249 08251, 08255, 08257, 08261.
Landholding Agency: Army
Property Number: 21200410110
Status: Unutilized
Comment: 7152 sq. ft. 6 plex housing quarters, potential contaminants, off-site use only

6 Bldg
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 07044, 07106, 07107, 08260, 08281, 08300
Landholding Agency:Army
Property Number: 21200410111
Status: Unutilized
Comment: 9520 sq. ft., 8 plex housing quarters, potential contaminants, off-site use only

15 Bldgs
Fort Leaonard Wood

Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 08242, 08243, 08246– 08248, 08250, 08252–08254, 08256, 08258–08259, 08262–08263, 08265
Landholding Agency:
Property Number: 21200410112
Status: Unutilized
Comment: 4784 sq. ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldgs 08283, 08285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410113
Status: Unutilized
Comment: 2240 sq. ft., 2 plex housing quarters, potential contaminants, off-site use only

15 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–0827
Location: 08267, 08269, 08271, 08273, 08275, 08277, 08279, 08290– 08296,08301
Landholding Agency: Army
Property Number: 21200410114
Status: Unutilized
Comment: 4784 sq. ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldg 09432
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410115
Status: Unutilized
Comment: 8724 sq. ft., 6-plex housing quarters, potential contaminants, off-site use only

Bldgs. 5006 and 5013
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200430064
Status: Unutilized
Comment: 192 & 144 sq. ft., needs repair, most recent use—generator bldg., off-site use only

Bldgs. 13210, 13710
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200430065
Status: Unutilized
Comment: 144 sq. ft. each, needs repair, most recent use—communication, off-site use only

Montana

Bldg. 00405
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130099
Status: Unutilized
Comment: 3467 sq. ft., most recent use—storage, security limitations

Bldg. T0066
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130100
Status: Unutilized
Comment: 528 sq. ft., needs rehab, presence of asbestos, security limitations

New Jersey

Bldg. 178
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740312
Status: Unutilized
Comment: 2067 sq. ft., most recent use—research, off-site use only

Bldg. 732
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740315
Status: Unutilized
Comment: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 816C
Armament R, D, & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21200130103
Status: Unutilized
Comment: 144 sq. ft., most recent use—storage, off-site use only

New Mexico

Bldg. 34198
White Sands Missile Range
Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 21200230062
Status: Excess
Comment: 107 sq. ft., most recent use—security, off-site use only

New York

Bldg. T–181
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130129
Status: Unutilized
Comment: 3151 sq. ft., needs rehab, most recent use—housing mnt., off-site use only

Bldg. T–201
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130131
Status: Unutilized
Comment: 2305 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–203
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130132
Status: Unutilized
Comment: 2284 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–252
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130133
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–253, T–256, T–257
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130134
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–271, T–272, T–273
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130135
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. T–274
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130136
Status: Unutilized
Comment: 2750 sq. ft., needs rehab, most recent use—BN HQ, off-site use only

Bldgs. T–276, T–277, T–278
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130137
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. T–1030
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130139
Status: Unutilized
Comment: 15606 sq. ft., needs rehab, most recent use—simulator bldg., off-site use only

Bldg. P–2159
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130140
Status: Unutilized
Comment: 1948 sq. ft., needs rehab, most recent use—waste/water treatment, off-site use only

Bldg. T–2443
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130142
Status: Unutilized
Comment: 793 sq. ft., needs rehab, most recent use—vet facility, off-site use only

Bldgs. T–401, T–403
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210042
Status: Unutilized
Comment: 2305/2284 sq. ft., needs repair, most recent use—battalion hq bldg., off-site use only

Bldgs. T–404, T–406, T–407
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210043
Status: Unutilized

Comment: 2000/1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldg. T–430
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210044
Status: Unutilized
Comment: 2731 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

4 Bldgs.
Fort Drum
T–431, T–432, T–433, T–434
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210045
Status: Unutilized
Comment: 1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldg. T–435
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210046
Status: Unutilized
Comment: 2731 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldgs. T–437, T–438
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210047
Status: Unutilized
Comment: 1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldgs. T–439, T–460
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210048
Status: Unutilized
Comment: 2588/2734 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

4 Bldgs.
Fort Drum
T–461, T–462, T–463, T–464
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210049
Status: Unutilized
Comment: 1144 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldg. T–465
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210050
Status: Unutilized
Comment: 2734 sq. ft., needs repair, most recent use—Co Hq Bldg., off-site use only

Bldgs. T–405, T–408
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210051
Status: Unutilized
Comment: 1296 sq. ft., needs repair, most recent use—storage, off-site use only

6 Bldgs.
Fort Drum
T–410, T–411, T–412, T–416, T–417, T–418
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210052
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

Bldgs. T421, T–422
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210053
Status: Unutilized
Comment: 2510 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

Bldgs. T–423, T–424
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210054
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

7 Bldgs.
Fort Drum
T–441, T–442, T–443, T–444, T–446–T–448
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210055
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

6 Bldgs.
Fort Drum
T–451, T–452, T–453, T–454, T–456, T–458
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210056
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

5 Bldgs.
Fort Drum
T–471, T–472, T–473, T–474, T–477
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210057
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—enlisted barracks AN TR, off-site use only

Bldgs. T–420, T–445, T–470
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210058
Status: Unutilized
Comment: 2510 sq. ft., needs repair, most recent use—dining facility, off-site use only

Bldgs. T–440, T–450
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210059
Status: Unutilized
Comment: 2360 sq. ft., needs repair, most recent use—dining facility, off-site use only

Bldg. T–478
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200210060
Status: Unutilized
Comment: 4720 sq. ft., needs repair, most recent use—classroom, off-site use only

5 Bldgs.
Orangeburg USARC
#206, 207, 208, 218, 223
Orangeburg Co: Rockland NY 10962–2209
Landholding Agency: Army
Property Number: 21200310061
Status: Unutilized
Comment: various sq. ft., need major repairs, presence of lead paint, most recent use—admin/storage, off-site use only

North Carolina

Bldg. C5536
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Landholding Agency: Army
Property Number: 21200130150
Status: Unutilized
Comment: 600 sq. ft., single wide trailer w/ metal storage shed, needs major repair, presence of asbestos/lead paint, off-site use only

Oklahoma

Bldg. T–838,
Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable)

Bldg. T–954,
Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop

Bldg. T–3325,
Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse

Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199440384
Status: Unutilized
Comment: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015
Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 21199520197
Status: Unutilized

Comment: 15402 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–366
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199610740
Status: Unutilized
Comment: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Building T–2952
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710047
Status: Unutilized
Comment: 4,327 sq. ft., possible asbestos and lead paint, most recent use—motor repair shop, off-site use only

Building P–5042
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710066
Status: Unutilized
Comment: 119 sq. ft., possible asbestos and lead paint, most recent use—heatplant, off-site use only

4 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: T–6465, T–6466, T–6467, T–6468
Landholding Agency: Army
Property Number: 21199710086
Status: Unutilized
Comment: various sq. ft., possible asbestos and lead paint, most recent use—range support, off site use only

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730350
Status: Unutilized
Comment: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730351
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730353
Status: Unutilized
Comment: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730357
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730358
Status: Unutilized
Comment: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730362
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730364
Status: Unutilized
Comment: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730366
Status: Unutilized
Comment: 1656–3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730367
Status: Unutilized
Comment: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730372
Status: Unutilized
Comment: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730383
Status: Unutilized
Comment: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3314
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730385
Status: Unutilized
Comment: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730409
Status: Unutilized
Comment: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730414
Status: Unutilized
Comment: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–7775
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730419
Status: Unutilized
Comment: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

4 Bldgs.
Fort Sill
P–617, P–1114, P–1386, P–1608
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
Comment: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–2581, P–2773
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910140
Status: Unutilized
Comment: 4093 and 4129 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2582
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–2912, P–2921, P–2944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910144
Status: Unutilized
Comment: 1390 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2914
Fort Sill
Lawton Co: Comanche OK 73503–5100

Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5101
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. S–6430
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
Comment: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6461
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
Comment: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6462
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. P–7230
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only

Bldg. S–4023
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010128
Status: Unutilized
Comment: 1200 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–747
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120120
Status: Unutilized
Comment: 9232 sq. ft., possible asbestos/lead paint, most recent use—lab, off-site use only

Bldg. P–842
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120123
Status: Unutilized
Comment: 192 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–911
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120124
Status: Unutilized
Comment: 3080 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–1672
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120126
Status: Unutilized
Comment: 1056 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–2362
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120127
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—gatehouse, off-site use only

Bldg. P–2589
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120129
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3043
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120130
Status: Unutilized
Comment: 80 sq. ft., possible asbestos/lead paint, most recent use—guard shack, off-site use only

Pennsylvania

5 Bldgs.
Carlisle Barracks
00441 thru 00445
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21200430066
Status: Unutilized
Comment: 4238 sq. ft. each, presence of asbestos, most recent use—residential, off-site use only

South Carolina

Bldg. 3499
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199730310
Status: Unutilized
Comment: 3724 sq. ft., needs repair, most recent use—admin.

Bldg. 2441
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820187
Status: Unutilized
Comment: 2160 sq. ft., needs repair, most recent use—admin.

Bldg. 3605
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820188
Status: Unutilized
Comment: 711 sq. ft., needs repair, most recent use—storage

Bldg. 1765
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21200030109
Status: Unutilized
Comment: 1700 sq. ft., need repairs, presence of asbestos/lead paint, most recent use—training bldg., off-site use only

Texas

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 21199640564
Status: Unutilized
Comment: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Bldg. 92043
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020206
Status: Unutilized
Comment: 450 sq. ft., most recent use—storage, off-site use only

Bldg. 92044
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020207
Status: Unutilized
Comment: 1920 sq. ft., most recent use—admin., off-site use only

Bldg. 92045
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020208
Status: Unutilized
Comment: 2108 sq. ft., most recent use—maint., off-site use only

Bldg. 120
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220137
Status: Unutilized
Comment: 1450 sq. ft., most recent use—dental clinic, off-site use only

Bldg. 56305
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220143
Status: Unutilized
Comment: 2160 sq. ft., most recent use—admin., off-site use only

Bldg. 56402
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220144

Status: Unutilized
Comment: 2680 sq. ft., most recent use—recreation center, off-site use only

Bldgs. 56403, 56405
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220145
Status: Unutilized
Comment: 480 sq. ft., most recent use—shower, off-site use only

Bldgs. 56620, 56621
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220146
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldgs. 56626, 56627
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220147
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56628
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220148
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56630, 56631
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220149
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldgs. 56636, 56637
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220150
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56638
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220151
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56703, 56708
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220152
Status: Unutilized
Comment: 1306 sq. ft., most recent use—shower, off-site use only

Bldg. 56758
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220154
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. P6220, P6222
Fort Sam Houston
Camp Bullis
San Antonio Co: Bexar TX
Landholding Agency: Army
Property Number: 21200330197
Status: Unutilized
Comment: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldgs. P6224, P6226
Fort Sam Houston
Camp Bullis
San Antonio Co: Bexar TX
Landholding Agency: Army
Property Number: 21200330198
Status: Unutilized
Comment: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldg. 04200
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200420065
Status: Unutilized
Comment: 2100 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Virginia

Bldg. T246
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 21199940047
Status: Unutilized
Comment: 756 sq. ft., needs repair, possible lead paint, most recent use—scout meetings, off-site use only

Bldgs. 1516, 1517, 1552, 1567
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 21200130154
Status: Unutilized
Comment: 2892 & 4720 sq. ft., most recent use—dining/barracks/admin, off-site use only

Bldg. 1559
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 21200130156
Status: Unutilized
Comment: 2892 sq. ft., most recent use—storage, off-site use only

Bldg. T0058
Fort Monroe
Stillwell Dr.
Ft. Monroe VA
Landholding Agency: Army
Property Number: 21200310057
Status: Excess
Comment: 7875 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. T–707
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 21200330199
Status: Unutilized
Comment: 3763 sq. ft., most recent use—chapel, off-site use only

Washington

Bldg. CO909
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630205
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1164
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630213
Status: Unutilized
Comment: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1307
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630216
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630217
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630218
Status: Unutilized
Comment: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630219
Status: Unutilized
Comment: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630220
Status: Unutilized
Comment: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199640570
Status: Unutilized
Comment: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. A1419
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army

Property Number: 21199640571
Status: Unutilized
Comment: 1307 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. EO347
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710156
Status: Unutilized
Comment: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. B1008
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720216
Status: Unutilized
Comment: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. B1011–B1012
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720217
Status: Unutilized
Comment: 992 sq. ft. and 1144 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. CO509, CO709, CO720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199810372
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, off-site use only

Bldg. 5162
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830419
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 5224
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830433
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—educ. fac., off-site use only

Bldg. U001B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920237
Status: Excess
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920238
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

10 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U002B, U002C, U005C, U015I, U016E, U019C, U022A, U028B, 0091A, U093C
Landholding Agency: Army
Property Number: 21199920239
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U003A, U004B, U006C, U015B, U016B, U019B
Landholding Agency: Army
Property Number: 21199920240
Status: Unutilized
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920241
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

Bldg. U005A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920242
Status: Unutilized
Comment: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U014A, U022B, U023A, U043B, U059B, U060A, U101A
Landholding Agency: Army
Property Number: 21199920245
Status: Excess
Comment: needs repair, presence of asbestos/lead paint, most recent use—ofc/tower/support, off-site use only

Bldg. U015J
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920246
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U018B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920247
Status: Unutilized
Comment: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920248
Status: Unutilized
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920250
Status: Unutilized
Comment: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site use only

Bldg. U027A
Fort Lewis
Ft. Lewis Co: Pierce WA–
Landholding Agency: Army
Property Number: 21199920251
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldg. U031A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920253
Status: Excess
Comment: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920254
Status: Unutilized
Comment: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920255
Status: Excess
Comment: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920256
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920257
Status: Excess
Comment: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U035C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920258

Status: Excess
Comment: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U039A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U039B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—grandstand/bleachers, off-site use only

Bldg. U039C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. U043A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
Comment: 132 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U052A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
Comment: 69 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U052E
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. U052G
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

3 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U058A, U103A, U018A
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U059A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U093B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
Comment: 680 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U101B, U101C, U507B, U557A
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U110B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
Comment: 138 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U111A, U015A, U024E, U052F, U109A, U110A
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
Comment: 1000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support/shelter/mess, off-site use only

Bldg. U112A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U115A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U507A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. C0120
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
Comment: 384 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—scale house, off-site use only

Bldg. A0334
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920284
Status: Excess
Comment: 1092 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
Comment: 87 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
Comment: 45 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Bldgs. 03091, 03099
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 4040
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920298
Status: Excess
Comment: 8326 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

Bldgs. 4072, 5104
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
Comment: 24/36 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 4295
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 5170
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920301
Status: Excess
Comment: 19,411 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—store, off-site use only

Bldg. 6191
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
Comment: 3663 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
Comment: 3660/412 sq .ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 08093
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
Comment: 289 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920306
Status: Excess
Comment: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only

Bldgs. 8280, 8291
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920307
Status: Excess
Comment: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 8956
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920308
Status: Excess
Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9530
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920309
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 9574
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920310
Status: Excess
Comment: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only

Bldg. 9596
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920311
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Land (by State)

Georgia

Land (Railbed)
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199440440
Status: Unutilized
Comment: 17.3 acres extending 1.24 miles, no known utilities potential

Ohio

Land
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 21200340094
Status: Excess
Comment: 11 acres, railroad access

South Carolina

One Acre
Fort Jackson
Columbia Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21200110089
Status: Underutilized
Comment: approx. 1 acre

Suitable/Unavailable Properties

Buildings (by State)

Alabama

Bldgs. 1001–1006, 1106–1107
Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 21200210027
Status: Unutilized
Comment: approx. 9000 sq. ft., poor condition, lead paint present, most recent use—warehouses, off-site use only

Bldg. 01433
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200220098
Status: Excess
Comment: 800 sq. ft., most recent use—office, off-site use only

Alaska

Bldgs. 345, 347
Ft. Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200320094
Status: Excess
Comment: 9456 sq. ft., needs rehab, off-site use only

Bldgs. 354, 357, 359
Ft. Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200320095
Status: Excess
Comment: 9456 sq. ft., needs rehab, off-site use only

Bldg. 368
Ft. Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200320096
Status: Excess
Comment: 12,642 sq. ft., needs rehab, off-site use only

Bldg. 370
Ft. Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 21200320097
Status: Excess
Comment: 9456 sq. ft., needs rehab, off-site use only

Colorado

Bldg. T–203
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340079
Status: Unutilized
Comment: 1628 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–223 thru T–227
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340081
Status: Unutilized
Comment: 9000 sq. ft., presence of asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. S6222
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340082
Status: Unutilized
Comment: 19,225 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. S6264
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340084

Status: Unutilized
Comment: 19,499 sq. ft., most recent use—office, off-site use only

Bldg. 1040
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410088
Status: Unutilized
Comment: 13,280 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldgs. P1042, P1043, P1044
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410089
Status: Unutilized
Comment: 40,639 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1045
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410090
Status: Unutilized
Comment: 12,115 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—admin/supply, off-site use only

Bldgs. P1046, P1047
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410091
Status: Unutilized
Comment: 40,639 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. P1049
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200410092
Status: Unutilized
Comment: 12,115 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—admin/supply, off-site use only

Bldg. S6220
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200420175
Status: Unutilized
Comment: 12,361 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. S6285
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200420176
Status: Unutilized
Comment: 19,478 sq. ft., most recent use—admin., off-site use only

Bldg. S6287
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200420177
Status: Unutilized
Comment: 10,076 sq. ft., presence of asbestos, most recent use—admin., off-site use only

District of Columbia

Bldg. 48A Annex
Fort McNair
Washington DC 20319–2058
Landholding Agency: Army
Property Number: 21200420001
Status: Excess
Comment: 3251 sq. ft., most recent use—admin., off-site use only

Georgia

Bldg. 2410
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200140076
Status: Unutilized
Comment: 8480 sq. ft., needs rehab, potential asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 20802
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200210078
Status: Unutilized
Comment: 740 sq. ft., needs repair, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–920
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200240083
Status: Excess
Comment: 13,337 sq. ft., most recent use—office, off-site use only

Bldgs. 00960, 00961, 00963
Fort Benning
Ft. Benning Co: Chattahoochee GA
Landholding Agency: Army
Property Number: 21200330107
Status: Unutilized
Comment: 11,110 sq. ft., most recent use—housing, off-site use only

Bldg. T201
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420002
Status: Excess
Comment: 1828 sq. ft., most recent use—credit union, off-site use only

Bldg. T202
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420003
Status: Excess
Comment: 5602 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. T222
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420004
Status: Excess
Comment: 2891 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. P223
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420005
Status: Excess
Comment: 6434 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. P224
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420006
Status: Excess
Comment: 6434 sq. ft., most recent use—enlisted bldg., off-site use only

Bldg. T234
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420008
Status: Excess
Comment: 2624 sq. ft., most recent use—admin., off-site use only

Bldg. T235
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420009
Status: Excess
Comment: 1842 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. T702
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420010
Status: Excess
Comment: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T703
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420011
Status: Excess
Comment: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T704
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420012
Status: Excess
Comment: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. P813
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420013
Status: Excess
Comment: 43,055 sq. ft., most recent use—maint. hanger/Co Hq., off-site use only

Bldgs. S843, S844, S845
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420014
Status: Excess
Comment: 9383 sq. ft., most recent use—maint hanger, off-site use only

Bldg. P925
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420015
Status: Excess
Comment: 27,681 sq. ft., most recent use—fitness center, off-site use only

Bldg. S1227
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420016
Status: Excess
Comment: 2750 sq. ft., most recent use—admin., off-site use only

Bldg. S1248
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420017
Status: Excess
Comment: 1450 sq. ft., most recent use—police station, off-site use only

Bldg. S1251
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420018
Status: Excess
Comment: 3300 sq. ft., most recent use—police station, off-site use only

Bldg. T1254
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420019
Status: Excess
Comment: 4720 sq. ft., most recent use—transient UPH, off-site use only

Bldg. S1259
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420020
Status: Excess
Comment: 1750 sq. ft., most recent use—admin., off-site use only

Bldg. S1260
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420021
Status: Excess
Comment: 1750 sq. ft., most recent use—exchange service outlet, off-site use only

Bldg. P1275
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420022
Status: Excess
Comment: 138,032 sq. ft., most recent use—dining facility, off-site use only

Bldg. P1276
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420023
Status: Excess
Comment: 138,032 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. P1277
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420024
Status: Excess
Comment: 13,981 sq. ft., most recent use—barracks/dining, off-site use only

Bldg. T1412
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420025
Status: Excess
Comment: 9186 sq. ft., most recent use—warehouse, off-site use only

Bldg. T1413
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420026
Status: Excess
Comment: 21,483 sq. ft., most recent use—fitness center/warehouse, off-site use only

Bldg. P8058
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420028
Status: Excess
Comment: 1808 sq. ft., most recent use—control tower, off-site use only

Bldg. 8658
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420029
Status: Excess
Comment: 8470 sq. ft., most recent use—storage, off-site use only

Bldg. 8659
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420030
Status: Excess
Comment: 8470 sq. ft., most recent use—storage, off-site use only

Bldgs. 8675, 8676
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420031
Status: Excess
Comment: 4000 sq. ft., most recent use—ship/recv facility, off-site use only

Bldg. 5962–5966
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420035
Status: Excess
Comment: 2421 sq. ft., most recent use—igloo storage, off-site use only

Bldgs. 5967–5971
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420036
Status: Excess
Comment: 1813 sq. ft., most recent use—igloo storage, off-site use only

Bldgs. 5974–5977
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420037
Status: Excess
Comment: 400 sq. ft., most recent use—igloo storage, off-site use only

Bldg. 5978
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420038
Status: Excess
Comment: 1344 sq. ft., most recent use—igloo storage, off-site use only

Bldg. 5981
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420039
Status: Excess
Comment: 2028 sq. ft., most recent use—ammo storage, off-site use only

Bldgs. 5984–5988
Fort Benning
Ft. Benning Co: Chatachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420040
Status: Excess
Comment: 1816 sq. ft., most recent use—igloo storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420041
Status: Excess
Comment: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420042
Status: Excess
Comment: 2016 sq. ft., most recent use—ammo storage, off-site use only

Bldg. 5995
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420043
Status: Excess
Comment: 114 sq. ft., most recent use—storage, off-site use only

Bldg. 9000
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420045
Status: Excess
Comment: 9313 sq. ft., most recent use—headquarters bldg., off-site use only

Bldgs. 9002, 9005
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420046
Status: Excess
Comment: 3555 sq. ft., most recent use—classroom, off-site use only

Bldg. 9025
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420047
Status: Excess
Comment: 3707 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. 9026
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420048
Status: Excess

Comment: 3867 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. T01
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420181
Status: Excess
Comment: 11,682 sq. ft., most recent use—admin., off-site use only

Bldg. T04
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420182
Status: Excess
Comment: 8292 sq. ft., most recent use—admin., off-site use only

Bldg. T05
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420183
Status: Excess
Comment: 7992 sq. ft., most recent use—admin., off-site use only

Bldg. T06
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420184
Status: Excess
Comment: 3305 sq. ft., most recent use—communication center, off-site use only

Bldg. T08
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420185
Status: Excess
Comment: 7670 sq. ft., most recent use—admin., off-site use only

Bldg. 00037
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420186
Status: Excess
Comment: 2833 sq. ft., most recent use—admin., off-site use only

Bldg. T55
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420187
Status: Excess
Comment: 6490 sq. ft., most recent use—admin., off-site use only

Bldg. T85
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420188
Status: Excess
Comment: 3283 sq. ft., most recent use—post chapel, off-site use only

Bldg. T131
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420189
Status: Excess
Comment: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T132
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420190
Status: Excess
Comment: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T157
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420191
Status: Excess
Comment: 1440 sq. ft., most recent use—education center, off-site use only

Bldg. 00916
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420192
Status: Excess
Comment: 642 sq. ft., most recent use—warehouse, off-site use only

Bldg. 00923
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420193
Status: Excess
Comment: 2436 sq. ft., most recent use—admin., off-site use only

Bldg. P925
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420195
Status: Excess
Comment: 3115 sq. ft., most recent use—motor repair shop, off-site use only

Bldg. 00926
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420196
Status: Excess
Comment: 357 sq. ft., most recent use—warehouse, off-site use only

Bldg. 01002
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420197
Status: Excess
Comment: 9267 sq. ft., most recent use—maintenance shop, off-site use only

Bldg. 01003
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420198
Status: Excess
Comment: 9267 sq. ft., most recent use—admin, off-site use only

Bldg. T1004
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420199
Status: Excess
Comment: 9272 sq. ft., most recent use—warehouse, off-site use only

Bldg. T1023
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420200
Status: Excess
Comment: 9267 sq. ft., most recent use—warehouse, off-site use only

Bldg. T1041
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420201
Status: Excess
Comment: 1626 sq. ft., most recent use—storage, off-site use only

Bldg. T1043
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420202
Status: Excess
Comment: 3825 sq. ft., most recent use—admin., off-site use only

Bldg. T1045
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420203
Status: Excess
Comment: 600 sq. ft., most recent use—shop, off-site use only

Bldg. T106
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420204
Status: Excess
Comment: 650 sq. ft., most recent use—heat plant bldg., off-site use only

Bldg. T1047
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420205
Status: Excess
Comment: 3000 sq. ft., most recent use—wash. platform/org., off-site use only

Bldg. T1049
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420206
Status: Excess
Comment: 768 sq. ft., most recent use—engine test facility, off-site use only

Bldg. T1050
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420207
Status: Excess
Comment: 3114 sq. ft., most recent use—shop, off-site use only

Bldg. T1051
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420208
Status: Excess
Comment: 12,205 sq. ft., most recent use—shop, off-site use only

Bldg. T1056
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army

Property Number: 21200420209
Status: Excess
Comment: 18,260 sq. ft., most recent use—shop, off-site use only

Bldg. T1057
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420210
Status: Excess
Comment: 18,260 sq. ft., most recent use—warehouse, off-site use only

Bldg. T1058
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420211
Status: Excess
Comment: 18,260 sq. ft., most recent use—storage, off-site use only

Bldg. T1062
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420212
Status: Excess
Comment: 5520 sq. ft., most recent use—general purpose, off-site use only

Bldg. T1069
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420213
Status: Excess
Comment: 14,096 sq. ft., most recent use—shop, off-site use only

Bldg. T1083
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420214
Status: Excess
Comment: 2816 sq .ft., most recent use—storage, off-site use only

Bldg. 19101
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420215
Status: Excess
Comment: 6773 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. 19102
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420216
Status: Excess
Comment: 3250 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. T19111
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420217
Status: Excess
Comment: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. 19112
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420218
Status: Excess
Comment: 1344 sq. ft., most recent use—storage, off-site use only

Bldg. 19113
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420219
Status: Excess
Comment: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. T19201
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420220
Status: Excess
Comment: 960 sq. ft., most recent use—physical fitness center, off-site use only

Bldg. 19202
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420221
Status: Excess
Comment: 1210 sq. ft., most recent use—community center, off-site use only

Bldg. 19204 thru 19207
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420222
Status: Excess
Comment: 960 sq. ft., most recent use—admin., off-site use only

Bldgs. 19208 thru 19211
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420223
Status: Excess
Comment: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19212
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420224
Status: Excess
Comment: 1248 sq. ft., off-site use only

Bldg. 19213
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420225
Status: Excess
Comment: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19214
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420226
Status: Excess
Comment: 1796 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19215
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420227
Status: Excess
Comment: 1948 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19216
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420228
Status: Excess
Comment: 1540 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19217
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420229
Status: Excess
Comment: 120 sq. ft., most recent use—nav aids bldg., off-site use only

Bldg. 19218
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420230
Status: Excess
Comment: 2925 sq. ft., most recent use—general installation bldg., off-site use only

Bldgs. 19219, 19220
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420231
Status: Excess
Comment: 1200 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19223
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420232
Status: Excess
Comment: 6433 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19225
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420233
Status: Excess
Comment: 4936 sq. ft., most recent use—dining facility, off-site use only

Bldg. 19226
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420234
Status: Excess
Comment: 136 sq. ft., most recent use—general purpose installation bldg., off-site use only

Bldg. T19228
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420235
Status: Excess
Comment: 400 sq. ft., most recent use—admin., off-site use only

Bldg. 19229
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420236
Status: Excess
Comment: 640 sq. ft., most recent use—vehicle shed, off-site use only

Bldg. 19232
Fort Stewart

Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420237
Status: Excess
Comment: 96 sq. ft., most recent use—general purpose installation, off-site use only

Bldg. 19233
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420238
Status: Excess
Comment: 48 sq. ft., most recent use—fire support, off-site use only

Bldg. 19236
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420239
Status: Excess
Comment: 1617 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19238
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420240
Status: Excess
Comment: 738 sq. ft., off-site use only

Indiana

Bldg. 301
Fort Benjamin Harrison
Indianapolis Co: Marion IN 45216–
Landholding Agency: Army
Property Number: 21200320098
Status: Unutilized
Comment: 1564 sq. ft., possible asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. 302
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320099
Status: Unutilized
Comment: 400 sq. ft., possible asbestos/lead paint, most recent use—switch station, off-site use only

Bldg. 303
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320100
Status: Unutilized
Comment: 462 sq. ft., possible asbestos/lead paint, most recent use—heat plant bldg., off-site use only

Bldg. 304
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320101
Status: Unutilized
Comment: 896 sq. ft., possible asbestos/lead paint, most recent use—heat plant bldg., off-site use only

Bldg. 334
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320102
Status: Unutilized
Comment: 652 sq. ft., possible asbestos/lead paint, off-site use only

Bldg. 337
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320103
Status: Unutilized
Comment: 675 sq. ft., possible asbestos/lead paint, off-site use only

Maryland

Bldg. 2282C
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230059
Status: Unutilized
Comment: 46 sq. ft., needs rehab, most recent use—sentry tower, off-site use only

Bldg. 8608
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410099
Status: Unutilized
Comment: 2372 sq. ft., concrete block, most recent use—PX exchange, off-site use only

Bldg. 8612
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410101
Status: Unutilized
Comment: 2372 sq. ft., concrete block, most recent use—family life ctr., off-site use only

Missouri

Bldg. 1230
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340087
Status: Unutilized
Comment: 9160 sq. ft., most recent use—training, off-site use only

Bldg. 1621
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340088
Status: Unutilized
Comment: 2400 sq. ft., most recent use—exchange branch, off-site use only

Bldg. 6822
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340091
Status: Unutilized
Comment: 4000 sq. ft., most recent use—storage, off-site use only

Bldg. 9000
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340092
Status: Unutilized
Comment: 1440 sq. ft., most recent use—welcome center, off-site use only

Bldg. 10201
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340093
Status: Unutilized
Comment: 1200 sq. ft., most recent use—storage, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410102
Status: Unutilized
Comment: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410103
Status: Unutilized
Comment: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410104
Status: Unutilized
Comment: 120 sq. ft., most recent use—observation tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410105
Status: Unutilized
Comment: 800 sq. ft., most recent use—range support, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420059
Status: Unutilized
Comment: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420060
Status: Unutilized
Comment: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420061
Status: Unutilized
Comment: 120 sq. ft., most recent use—obs. tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420062

Status: Unutilized
Comment: 800 sq. ft., most recent use—support bldg., off-site use only

New York

Bldgs. 1511–1518
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320160
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1523–1526
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320161
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1704–1705, 1721–1722
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320162
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldg. 1723
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320163
Status: Unutilized
Comment: 2400 sq. ft., needs rehab, most recent use—day room, off-site use only

Bldgs. 1706–1709
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320164
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1731–1735
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320165
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

North Carolina

Bldgs. A2245, A2345
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240084
Status: Excess
Comment: 3444 sq. ft. each, possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. A2544
Fort Bragg
Ft. Bragg Co: Cumberland NC 2833110–
Landholding Agency: Army
Property Number: 21200240085
Status: Excess
Comment: 4000 sq. ft., possible asbestos/lead paint, most recent use—admin. facility, off-site use only

Bldg. D2826
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240086
Status: Excess
Comment: 41,520 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. N4116
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240087
Status: Excess
Comment: 3944 sq. ft., possible asbestos/lead paint, most recent use—community facility, off-site use only

103 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: WS001–WS02A, PE001–PE031, 002F1–02F36, 00651, 1101, DT001–DT035, DT052–DT056, 09051
Landholding Agency: Army
Property Number: 21200240088
Status: Excess
Comment: multi-use structures, various sq ft., possible asbestos/lead paint, off-site use only

Bldgs. 400–405
Military Ocean Terminal
Southport Co: Brunswick NC 28461–
Landholding Agency: Army
Property Number: 21200410106
Status: Excess
Comment: housing—1 residence, 2 duplexes, presence of asbestos/lead paint, off-site use only

Pennsylvania

Bldg. 00001
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330183
Status: Unutilized
Comment: 225,400 sq. ft., needs rehab, most recent use—admin/storage/misc, off-site use only

Bldg. 00002
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330184
Status: Unutilized
Comment: 44,800 sq. ft., needs rehab, most recent use—shop/storage, off-site use only

Bldgs. 00004, 00005, 00006
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330185
Status: Unutilized
Comment: 201,600 sq. ft. each, needs rehab, most recent use—warehouse/storage, off-site use only

Bldg. 00013
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330186
Status: Unutilized
Comment: 1200 sq. ft., needs rehab, off-site use only

Bldg. 00024
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330187
Status: Unutilized
Comment: 3100 sq. ft., needs rehab, most recent use—eng/housing mnt, off-site use only

Bldg. 00025
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330188
Status: Unutilized
Comment: 2640 sq. ft., needs rehab, most recent use—salt shed, off-site use only

Bldg. 00028
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330189
Status: Unutilized
Comment: 12,352 sq. ft., needs rehab, most recent use—vehicle maint shop, off-site use only

Bldg. 00064
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330190
Status: Unutilized
Comment: 900 sq. ft., needs rehab, off-site use only

Bldg. 00068
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330191
Status: Unutilized
Comment: 717 sq. ft., needs rehab, off-site use only

Bldg. 00095
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330193
Status: Unutilized
Comment: 480 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 00096
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330194
Status: Unutilized
Comment: 1824 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 00097
Defense Distribution Depot
New Cumberland Co: York PA 17070–5002
Landholding Agency: Army
Property Number: 21200330195
Status: Unutilized
Comment: most recent use—open storage, off-site use only

Tennessee

Bldgs. 01551, 01552
Fort Campbell
Ft. Campbell Co: Montgomery TN 42223–
Landholding Agency: Army

Property Number: 21200230076
Status: Unutilized
Comment: 2052 sq. ft.

Texas

Bldgs. 4219, 4227
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220139
Status: Unutilized
Comment: 8056 & 10,500 sq. ft., most recent use—admin., off-site use only

Bldgs. 4229, 4230, 4231
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220140
Status: Unutilized
Comment: 9000 sq. ft., most recent use—hq. bldg., off-site use only

Bldgs. 4244, 4246
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220141
Status: Unutilized
Comment: 9000 sq. ft., most recent use—storage, off-site use only

Bldgs. 4260, 4261, 4262
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220142
Status: Unutilized
Comment: 7680 sq. ft., most recent use—storage, off-site use only

Bldg. 00241
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430067
Status: Unutilized
Comment: 1008 sq. ft.

Bldgs. 00242–00244
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430068
Status: Unutilized
Comment: 1008 sq. ft. each, most recent use—instruction bldg.

Bldgs. 00245–00247
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430069
Status: Unutilized
Comment: 1008 sq. ft. each, most recent use—instruction bldg.

Bldgs. 00248–00249
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430070
Status: Unutilized
Comment: 1008 sq. ft. each, most recent use—instruction bldg.

Bldgs. 00250–00252
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430071
Status: Unutilized
Comment: 1008 sq. ft. each, most recent use—instruction bldg.

Bldgs. 00253–00254
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430072
Status: Unutilized
Comment: 1008 sq. ft. each, most recent use—instruction bldg.

Bldg. 27002
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430073
Status: Unutilized
Comment: 154,564 sq. ft., most recent use—barracks

Bldg. 27004
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430074
Status: Unutilized
Comment: 15,382 sq. ft., most recent use—dining facility

Bldg. 27006
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430075
Status: Unutilized
Comment: 154,564 sq. ft., most recent use—barracks

Virginia

Bldg. T2827
Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 21200320172
Status: Unutilized
Comment: 3550 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. T2841
Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 21200320173
Status: Unutilized
Comment: 2950 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. T0258
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 21200410107
Status: Excess
Comment: 4830 sq. ft., possible lead paint, presence of asbestos, most recent use—admin., off-site use only

Washington

Bldg. 03272
Fort Lewis
Tacoma Co: Pierce WA 98335–
Landholding Agency: Army
Property Number: 21200220160
Status: Unutilized
Comment: 21,373 sq. ft., most recent use—hangar, off-site use only

Bldg. 04180
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240091
Status: Excess
Comment: 72 sq. ft., most recent use—guard shack, off-site use only

Bldg. 05904
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240092
Status: Excess
Comment: 82 sq. ft., most recent use—guard shack, off-site use only

Bldgs. 9003, 9517
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240093
Status: Excess
Comment: 80 and 82 sq. ft., most recent use—guard shack, off-site use only

Wisconsin

Bldg. 01553
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 21200420063
Status: Unutilized
Comment: 1998 sq. ft., most recent use—service station, off-site use only

Bldg. 01563
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 21200420064
Status: Unutilized
Comment: 120 sq. ft., most recent use—transmitter bldg., off-site use only

Unsuitable Properties

Buildings (by State)

Alabama

76 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 21200040001–21200040012, 21200120018, 21200220003–21200220004, 21200240007–21200240023, 21200330001–21200330004, 21200340011–21200340012, 21200340095, 21200420068-21200420071
Status: Unutilized
Reason: Secured Area; Extensive deterioration

30 Bldgs., Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219740006, 21200010010, 21200040013, 21200220001, 21200240001–21200240004, 21200420072–21200420073, 21200430005–21200430006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 28152
Rucker
Hartford Co: Geneva AL 36344
Landholding Agency: Army
Property Number: 21200230002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01271

Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 21200430004
Status: Unutilized
Reason: Extensive deterioration

Alaska

20 Bldgs., Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 219710090, 219710195–219710198, 219810002, 219810007, 21199920001, 21200320005, 21200340007–21200340010, 21200430001–21200430003
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area; Floodway (Some are extensively deteriorated)

24 Bldgs., Fort Richardson
Ft. Richardson Co: AK 99505
Landholding Agency: Army
Property Number: 21200320001–21200320004, 21200340001–21200340006
Status: Excess
Reason: Extensive deterioration

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

7 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273–219030274, 219120177–219120181
Status: Unutilized
Reason: Secured Area

9 Bldgs.
Camp Navajo
Bellemont Co: AZ 86015
Landholding Agency: Army
Property Number: 21200140002–21200140010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 15348, 15333
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200240024, 21200320005
Status: Excess
Reason: Extensive deterioration

Arkansas

189 Bldgs., Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019, 219630021, 219630029, 219640462–219640477, 21200110001–21200110017, 21200140011–21200140014
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

11 Bldgs., Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number:219013582–219013588, 219013590, 219240444–219240446
Status: Underutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area

40 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219610289, 21199930021, 21200030005–21200030015, 21200040015, 21200120029–21200120039, 21200130004, 21200240025–21200240030, 21200330007
Status: Unutilized
Reason: Secured Area

Bldgs. 29, 39, 73, 154, 155, 193, 204, 257
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 21199840015 21199920033–21199920036, 21199940052–21199940056
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

449 Bldgs.
Camp Roberts
Camp Roberts Co: San Obispo CA
Landholding Agency: Army
Property Number: 21199730014, 219820192–219820235
Status: Excess
Reason: Secured Area; Extensive deterioration

27 Bldgs.
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 21199940051, 21200130005
Status: Unutilized
Reason: Extensive deterioration

46 Bldgs.
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 21199920037–21199920038, 21200030016–21200030018, 21200040014, 21200110018–21200110020, 21200130002–21200130003, 21200210001–21200210005, 21200240031–21200240033
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldg. 00720
Fort Hunter Liggett
Jolon Co: Monterey CA 93928
Landholding Agency: Army
Property Number: 21200330006
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

11 Bldgs.
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219830024, 21200130006–21200130011, 21200420161–21200420164
Status: Unutilized
Reason: Extensive deterioration; (Some are within 2000 ft. of flammable or explosive material)

5 Bldgs.
Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 21200030019–21200030021, 21200420165–21200420166
Status: Unutilized
Reason: Extensive deterioration

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

Facility 12304
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack

216 Bldgs.
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219220269, 219410050–219410051, 219410071–219410072, 219410100, 219410109, 219630044–

219630063, 219640011–219640024, 219830038–219830067, 21199910012, 21200210061–21200210073, 21200220007–21200220010, 21200230007–21200230015, 21200420167–21200420172, 21200430007–21200430010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2872, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220337
Status: Unutilized
Reason: Detached lavatory

47 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219520150, 219610320, 219720017–219720019, 219810028, 219810030, 219810035, 219830073, 219830076, 21199930031–21199930037, 21200030023–21200030027, 21200330008–21200330010, 21200330200, 21200410001–21200410010, 21200430011–21200430016
Status: Unutilized
Reason: Extensive deterioration

32 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219620815, 21199920044–21199920050, 21200140016, 21200220011–21200220012, 21200230005, 21200340013–21200340016, 21200420074–21200420082
Status: Unutilized
Reason: Extensive deterioration; Secured Area

Bldg. P8121, Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21199940060
Status: Unutilized
Reason: Extensive Deterioration

4 Bldgs., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219630034, 219830068, 21200120042, 21200430062
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 21200040016–21200040018, 21200230004
Status: Unutilized
Reason: Secured Area

Hawaii

16 Bldgs.
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837, 219030361, 21200410012
Status: Unutilized
Reason: Secured Area (Most are extensively deteriorated)

4 Bldgs., Fort Shafter
Honolulu Co: HI 96819
Landholding Agency: Army
Property Number: 21200240034, 21200310001
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs
Kipapa Ammo Storage Site 20A/B, 21A/B, 22B, 23A/B, 24A/B, 25A/B
Waipahu Co: Honolulu HI 96797
Landholding Agency: Army
Property Number: 21200410011
Status: Unutilized
Reason: Secured Area

Illinois

13 Bldgs.
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219110104–219110108, 219210100, 219620427, 219620428, 21200140043–21200140046
Status: Unutilized
Reason: Some are in a secured area; Some are extensively deteriorated; Some are within 2000 ft. of flammable or explosive material

15 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219820027, 21199930042–21199930053
Status: Unutilized
Reason: Secured Area, Floodway; Extensive deterioration.

Bldgs. 111, 145
Col. Schulstad Memorial USARC
Arlington Heights Co: Cook IL 60005
Landholding Agency: Army
Property Number: 21200320012
Status: Unutilized
Reason: Extensive deterioration

Indiana

173 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149, 219430336, 219430338, 219530079–219530096, 219740021–219740026, 219820031–219820032, 21199920063, 21200330015–21200330016
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 300, 00112, 00123
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216
Landholding Agency: Army
Property Number: 21200320011, 21200430017
Status: Unutilized
Reason: Contamination

Iowa

110 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219520002, 219520070, 219610414, 219740027, 21200220022, 21200230019–21200230023, 21200330012–21200330014, 21200340017, 21200420083, 21200430018
Status: Unutilized
Reason: (Many are in a Secured Area) (Most are within 2000 ft. of flammable or explosive material.)

27 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Number: 219230005–219230029, 219310017, 219340091
Status: Unutilized
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

Bldg. P–417
Fort Leavenworth
Leavenworth KS 66027
Landholding Agency: Army
Property Number: 219740029
Status: Unutilized
Reason: Extensive deterioration; Sewage pump station

Bldg. 00166
Fort Riley
Ft. Riley Co: Riley KS 66442
Landholding Agency: Army
Property Number: 21200310007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 170
Ft. Leavenworth
Ft. Leavenworth Co: KS 66027
Landholding Agency: Army
Property Number: 21200420084
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Bldg. 126
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area; Sewage treatment facility

Bldg. 12
Lexington—Blue Grass Army Depot

Lexington Co: Fayette KY 40511–
Location: 12 miles Northeast of Lexington Kentucky.
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant.

481 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 21200130026–21200130029, 21200220030–21200220055, 21200240035–21200240045, 21200320013–21200320014, 21200340018, 21200420085–21200420087
Status: Unutilized
Reason: Extensive deterioration

44 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 21200110030–21200110049, 21200140048, 21200140053, 21200220029, 21200230029–21200230030, 21200320018, 21200330018–21200330022, 21200420088
Status: Unutilized
Reason: Extensive deterioration

Louisiana 528 Bldgs.

Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219011714–219011716, 219011735–219011737, 219012112, 219013863–219013869, 219110131, 219240138–219240147, 219420332, 219610049–219610263, 219620002–219620200, 219620749–219620801, 219820047–219820078
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated)

38 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 21199920070, 21199920078, 21199940074, 21199940075, 21200120058, 21200130030–21200130043
Status: Unutilized
Reason: Extensive deterioration (Some are in Floodway.)

Maryland

97 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219012610, 219012637–219012642, 219012658–219012662, 219013773, 219014711, 219610489–219610490, 219730077, 219810076–219810112, 219820090–219820096, 21200120059–21200120060, 21200330025, 21200410017–21200410033, 21200420097–21200420103
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway) (Some are extensively deteriorated)

78 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219710186,219740068–219740076, 219810065,21199910019, 21199940084, 21200140059–21200140060, 21200240046–21200240053, 21200310017, 21200330023, 21200410014–21200410016, 21200420096 Status: Unutilized Reason: Extensive deterioration

12 Bldgs., Woodstock Military Rsv
Granite Co: Baltimore MD 22163
Landholding Agency: Army
Property Number: 21200130044–21200130052
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00211, Curtis Bay Ordnance Depot
Baltimore Co: MD 21226
Landholding Agency: Army
Property Number: 21200320024
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Fort Detrick
Frederick Co: MD 21702
Landholding Agency: Army
Property Number: 21200430019–21200430020
Status: Unutilized
Reason: Secured Area

Massachusetts

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 024620–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldg. 1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219310020
Status: Unutilized
Reason: Secured Area

Facility No. 0G001
LTA Granby
Granby Co: Hampshire MA
Landholding Agency: Army
Property Number: 219810062
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Devens RFTA
Devens Co: MA 01432–4429
Landholding Agency: Army
Property Number: 21200340019–21200340021
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fera USARC
Danvers Co: Essex MA 01923–1121
Landholding Agency: Army
Property Number: 21200420089–21200420092
Status: Unutilized
Reason: Extensive deterioration

Michigan

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area; Extensive deterioration

31 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 21200220058–21200220062, 21200410036–21200410042
Status: Unutilized
Reason: Extensive deterioration

11 Bldgs.
Selfridge ANG Base
Selfridge Co: MI 48045
Landholding Agency: Army
Property Number: 21199930059, 21199940089–21199940093, 21200110052–21200110055, 21200420093
Status: Unutilized
Reason: Secured Area

4 Bldgs.
Poxin USAR Center
Southfield Co: Oakland MI 48034
Landholding Agency: Army
Property Number: 21200330026–21200330027, 21200420095
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs.
Grayling Army Airfield
Grayling Co: Crawford MI 49739
Landholding Agency: Army
Property Number: 21200410034–21200410035
Status: Excess
Reason: Extensive deterioration

Bldg. 001, Crabble USARC
Saginaw MI 48601–4099
Landholding Agency: Army
Property Number: 21200420094
Status: Unutilized
Reason: Extensive deterioration

17 Bldgs., Sebille Manor
Chesterfield Co: Macomb MI 48047
Landholding Agency: Army
Property Number: 21200430021–21200430028
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Minnesota

160 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310056, 219320152–219320156, 219330096–219330106, 219340015, 219410159–219410189, 219420198–219420283, 219430060–219430064, 21200130053–21200130054
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated)

Missouri

83 Bldgs.
Lake City Army Ammo. Plant
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134, 219530136, 21199910023–21199910035, 21199920082, 21200030049
Status: Unutilized

Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant 4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

25 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219430070–219430075, 21199910020–21199910021, 21200320025, 21200330028–21200330031, 21200430029
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Some are extensively deteriorated.)

Bldg. P4122
U.S. Army Reserve Center
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200240055
Status: Unutilized
Reason: Extensive deterioration

Bldgs. P4074, P4072, P4073
St. Louis Ordnance Plant
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200310019
Status: Unutilized
Reason: Extensive deterioration

Montana

Bldg. P0516, Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200420104
Status: Excess
Reasons: Secured Area; Extensive deterioration

Nevada

Bldg. 292
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219013614
Status: Unutilized
Reason: Secured Area

39 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012013, 219013615–219013643,
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

Group 101, 34 Bldgs.
Hawthorne Army Ammunition Plant
Co: Mineral NV 89415–0015
Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

New Jersey

167 Bldgs., Picatinny Arsenal
Dover Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010444–219010474, 219010639–219010664, 219010680–219010715, 219012428, 219012430, 219012433–219012465, 219012469, 219012475, 219012765, 00219014306, 219014311, 219014317, 219140617, 219230123, 219420006, 219530147, 219540005, 219540007, 219740113–219740127, 21199940094–21199940099, 21200130057–21200130063, 21200220063, 21200230071-21200230075, 21200330047–21200330063, 21200410043–21200410044
Status: Excess
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated and in a floodway)

7 Bldgs., Ft. Monmouth
Ft. Monmouth Co: NJ 07703–
Landholding Agency: Army
Property Number: 21200330033–21200330036, 21200430030
Status: Unutilized
Reason: Extensive deterioration

18 Bldgs., Fort Dix
Ft. Dix Co: Burlington NJ 08640–5506
Landholding Agency: Army
Property Number: 21200330037–21200330046, 21200420109-21200420111, 21200430031–21200430033
Status: Unutilized
Reason: Extensive deterioration

New Mexico

39 Bldgs.
White Sands Missile Range
Dona Ana Co: NM 88002–
Landholding Agency: Army
Property Number: 21200410045–21200410049
Status: Excess
Reason: Secured Area

New York

Bldgs. 110, 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439, 219240440–219240443
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldgs. 12, 134
Watervliet Arsenal
Watervliet NY
Landholding Agency: Army
Property Number: 219730099, 21199840068
Status: Unutilized
Reason: Extensive deterioration; Secured Area

13 Bldgs., Youngstown Training Site
Youngstown Co: Niagara NY 14131
Landholding Agency: Army
Property Number: 21200220064–21200220069
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1716, 3014 U.S. Military Academy
West Point Co: NY 10996
Landholding Agency: Army
Property Number: 21200330064, 21200410050
Status: Unutilized
Reason: Extensive deterioration

49 Bldgs., Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 21200340027–21200340029, 21200410051, 21200420112–21200420128
Status: Unutilized
Reason: Extensive deterioration

North Carolina

150 Bldgs. Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219620480, 219640074, 219710102–219710111, 219710224, 219810167, 21199930063, 21199930066, 21200040035, 21200140064, 21200340030–21200340045, 21200410052–21200410058, 21200420129-21200420130, 21200430034–21200430042
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs.
Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219810158–219810160, 21200330032
Status: Unutilized
Reason: Secured Area

North Dakota

Bldgs. 440, 455, 456, 3101, 3110
Stanley R. Mickelsen
Nekoma Co: Cavalier ND 58355
Landholding Agency: Army
Property Number: 21199940103–21199940107
Status: Unutilized
Reason: Extensive deterioration

Ohio

181 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 21199840069–1199840104, 21200240064, 21200420131–21200420132
Status: Unutilized
Reason: Secured Area

7 Bldgs.
Lima Army Tank Plant
Lima OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

Bldg. T091, Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 21200340046
Status: Unutilized
Reason: Extensive deterioration

Oklahoma

3 Bldgs., Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219510023, 21200330065, 21200430043
Status: Unutilized
Reason: Extensive deterioration

Oregon

11 Bldgs.

Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

34 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 21199840108–21199840110, 21199920084–21199920090
Status: Unutilized
Reason: Secured Area

Pennsylvania

59 Bldgs., Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Number: 219640337, 219730122–219730128, 219740137, 219810178–219810193
Status: Unutilized
Reason: Extensive deterioration

25 Bldgs.
Defense Distribution Depot
New Cumberland Co: York PA 17070–5001
Landholding Agency: Army
Property Number: 21200110062, 21200130072, 21200220073, 21200330071–21200330076, 21200340048–21200340051, 21200430044
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Bldg. 01006, Tobyhanna Army Depot
Tobyhanna Co: Monroe PA 18466–
Landholding Agency: Army
Property Number: 21200330068
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01003, C.E. Kelly Support Facility
Neville Island Co: Allegheny PA 15225
Landholding Agency: Army
Property Number: 21200330069
Status: Unutilized
Reason: Extensive deterioration

44 Bldgs.
Letterkenny Army Deport
Chambersburg Co: Franklin PA 17201
Landholding Agency: Army
Property Number: 21200420133–21200420144, 21200430045–21200430051
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

Bldgs. 00014, 00033, 00044
CE Kelly Support Facility
Oakdale Co: Allegheny PA 15071
Landholding Agency: Army
Property Number: 21200420153–21200420155
Status: Unutilized
Reason: Secured Area

Puerto Rico

105 Bldgs., Fort Buchanan
Guaynabo Co: PR 00934
Landholding Agency: Army
Property Number: 21200330077–21200330092, 21200340052–21200340055, 21200420156–21200420160
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Rhode Island

Bldg. 104, Army Aviation
North Kingstown Co: Washington RI 02852–
Landholding Agency: Army
Property Number: 21200120064
Status: Unutilized
Reason: Extensive deterioration

South Carolina

40 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number: 219440237, 219440239, 219620312, 219620317, 219620348, 219620351, 219640138–219640139, 21199640148–21199640149, 219720095, 219720097, 219730130, 219730132, 219730145–219730157, 219740138, 219820102–219820111, 219830139–219830157
Status: Unutilized
Reason: Extensive deterioration

Tennessee

80 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012328, 219012330, 219012332, 219012334, 219012337, 219013790, 219140613, 219440212–219440216, 219510025–219510028, 21200230035, 21200310038–21200310042, 21200320054–21200320074, 21200330093, 21200340056
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number:219240447–219240449, 219740139, 21200410062–21200410066
Status: Unutilized
Reason: Secured Area

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

42 Bldgs.
Fort Campbell
Ft. Campbell Co: Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200220023, 21200230033, 21200240065, 21200320046, 21200330094–21200330100, 21200420145, 21200430052–2100430055
Status: Unutilized
Reason: Extensive deterioration

Texas

20 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337-219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

385 Bldgs.
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State highway 43 north
Landholding Agency: Army
Property Number: 219012546, 219012548, 219610555–219610584, 219610635, 219620244–219620287, 219620827–219620837, 21200020054–21200020070, 21200340062–21200340073
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

16 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219420315–219420327, 219430095–219430097
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

87 Bldgs. Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219730160–219730186, 219830161–219830197, 21200310044, 21200320079, 21200340057–21200340060
Status: Unutilized
Reason: Extensive deterioration

Starr Ranch, Bldg. 703B
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Landholding Agency: Army
Property Number: 219640186, 219640494
Status: Unutilized
Reason: Floodway

8 Bldgs.
Grand Prairie Reserve
Complex
Grand Prairie Co: Tarrant TX 75050–
Landholding Agency: Army
Property Number: 21200330101–21200330103, 21200340061, 21200420152
Status: Unutilized
Reason: Secured Area

6 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200420146–21200420147
Status: Unutilized
Reason: Extensive deterioration

Utah

Bldg. 4555
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012166
Status: Unutilized

Reason: Secured Area

Bldg. S–4301
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012751
Status: Underutilized
Reason: Secured Area

3 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219013997, 219130012, 21200120065
Status: Underutilized
Reason: Secured Area

51 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219330181–219330182, 219330185, 219420328–219420329, 21199920091–21199920101
Status: Unutilized
Reason: Secured Area

Bldgs. 3102, 5145, 8030
Deseret Chemical Depot
Tooele UT 84074–
Landholding Agency: Army
Property Number: 219820119–219820121
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Virginia

346 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219220210–219220218, 219230100–219230103, 219240324, 219440219–219440225, 219510031–219510033, 219520037, 219520052, 219530194, 219610607–219610608, 219830223–219830267, 21200020079–21200020081, 21200230038, 21200240071–21200240072
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area (Some are extensively deteriorated)

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number:219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843,219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Latrine, detached structure

40 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219240107, 219330210, 219330225–219330228, 219520062, 219610597, 219620497, 219620866–219620876, 219630115, 219740156, 219830208–219830210, 21199940129–21199940130, 21200030062, 21200040040, 21200110064, 21200340074, 21200430058–21200430060
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141–
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

86 Bldgs.
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427–
Landholding Agency: Army
Property Number: 21200110069, 21200240068–21200240069, 21200310045, 21200310058–21200310060, 21200410068–21200410077, 21200430057
Status: Unutilized
Reason: Secured Area; Extensive deterioration

11 Bldgs.
Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 21199910050–21199910051, 21199920107, 21199940117–21199940120, 21200030063–21200030064, 21200130075–21200130077
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort Eustis
Ft. Eustis Co. VA 23604–
Landholding Agency: Army
Property Number: 21200210025–21200210026
Status: Unutilized
Reason: Extensive deterioration

Bldg. 448, Fort Myer
Ft. Myer Co: Arlington VA 22211–1199
Landholding Agency: Army
Property Number: 21200010069
Status: Underutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Monroe
Ft. Monroe Co: VA 23651–
Landholding Agency: Army
Property Number: 21200220076–21200220079, 21200310047, 21200410067, 21200430056
Status: Excess
Reason: Extensive deterioration

51 Bldgs.
Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 21200220087–21200220092, 21200320080–21200320087
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00723, Fort Story
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 21200310046
Status: Unutilized
Reason: Extensive deterioration

Washington

666 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610006, 219610009–219610010, 219610045–219610046, 219620512–219620517, 219640193, 219720142–219720151, 219810205–219810242, 219820132, 21199910063–21199910078, 21199920125–21199920174, 21199930080–21199930104, 21199940134, 21200120068, 21200140072–21200140073, 21200210075, 21200220097, 21200320091–21200320092, 21200330104–21200330106, 21200430061
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldg. HBC07, Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740166
Status: Unutilized
Reason: Extensive deterioration

Bldg. 415, Fort Worden
Port Angeles Co: Clallam WA 98362–
Landholding Agency: Army
Property Number: 21199910062
Status: Excess
Reason: Extensive deterioration

Bldg. U515A, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920124
Status: Excess
Reason: gas chamber

Bldgs. 02401, 02402
Vancouver Barracks Cemetery
Vancouver Co: WA 98661–
Landholding Agency: Army
Property Number: 21200310048
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs. Renton USARC
Renton Co: WA 980058–
Landholding Agency: Army
Property Number: 21200310049
Status: Unutilized
Reason: Extensive deterioration

Wisconsin

5 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011209–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Friable asbestos; Secured Area

153 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–

219011142, 219011144, 219011148–219011208, 219011213-219011216, 219011218–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011256, 19011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Friable asbestos; Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

906 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219210097–219210099, 219220295–219220311, 219510065, 219510067, 219510069–219510077, 219740184–219740271, 21200020083–21200020155, 21200240074–21200240080
Status: Unutilized
Reason: (Most are in a secured area) (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated)

12 Bldgs., Fort McCoy
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 21200410078–21200410081, 21200420149–21200420151
Status: Unutilized
Reason: Extensive deterioration

Land (by State)

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway; Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized
Reason: Landlocked

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway

2.0 Acres, Berkshire Trail
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910036
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

Training Land (3.764 acres
Camp Swift Military Rsv.
Bastrop Co: TX
Landholding Agency: Army
Property Number: 21200130073
Status: Unutilized
Reason: Secured Area

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area

[FR Doc. 04–19381 Filed 8–26–04; 8:45 am]

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Federal Register

Friday,
August 27, 2004

Part III

Securities and Exchange Commission

17 CFR Parts 239, 249, 270, and 274
Disclosure Regarding Portfolio Managers of Registered Management Investment Companies; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 249, 270, and 274

[Release Nos. 33–8458; 34–50227; IC–26533; File No. S7–12–04]

RIN 3235–AJ16

Disclosure Regarding Portfolio Managers of Registered Management Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; request for comments on Paperwork Reduction Act burden estimates.

SUMMARY: The Securities and Exchange Commission is adopting amendments to its forms under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to improve the disclosure provided by registered management investment companies regarding their portfolio managers. The amendments extend the existing requirement that a registered management investment company provide basic information in its prospectus regarding its portfolio managers to include the members of management teams. The amendments also require a registered management investment company to disclose additional information about its portfolio managers, including other accounts that they manage, compensation structure, and ownership of securities in the investment company.

DATES: *Effective Date:* October 1, 2004.

Compliance Date: See Section II.I. of this release for information on compliance dates.

Comment Date: Comments regarding the collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 of Forms N–1A and N–CSR should be received by October 1, 2004.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's *Internet comment form* (*http://www.sec.gov/rules/final.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–12–04 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number S7–12–04. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/final.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Sanjay Lamba, Attorney, or Christopher P. Kaiser, Branch Chief, Office of Disclosure Regulation, Division of Investment Management, (202) 942–0721, at the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') is adopting amendments to Form N–1A,[1] Form N–2,[2] and Form N–3,[3] registration forms used by management investment companies to register under the Investment Company Act of 1940 (''Investment Company Act'') and to offer their securities under the Securities Act of 1933 (''Securities Act''); amendments to Form N–CSR[4] under the Investment Company Act and the Securities Exchange Act of 1934 (''Exchange Act''), the form used by registered management investment companies to file certified shareholder reports with the Commission; and an amendment to Rule 30a–2[5] under the Investment Company Act.[6]

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I. Introduction

Registered management investment companies (''funds'')[7] typically are externally managed by an investment adviser, to which they pay an advisory fee from fund assets. The investment adviser in turn employs and compensates the individuals who act as portfolio managers for the fund. Our rules require funds to disclose in their prospectuses certain information concerning their portfolio managers. Fund prospectuses are required to include the name, title, length of service, and business experience of the individuals who are primarily responsible for the day-to-day management of the fund.[8] If a committee, team, or other group is jointly and primarily responsible for management of the fund, the fund must provide disclosure to the effect that the fund's investments are managed by that group, but need not provide the names of the members of the group.[9]

Recently, several areas of concern have been identified with respect to fund portfolio managers. In particular, concerns have been raised regarding the following:

- The absence of disclosure about:
  - The individual members of portfolio management teams;
  - The compensation of portfolio managers; and

[1] 17 CFR 239.15A and 274.11A.

[2] 17 CFR 239.14 and 274.11a–1.

[3] 17 CFR 239.17a and 274.11b.

[4] 17 CFR 249.331 and 274.128.

[5] 17 CFR 270.30a–2.

[6] The Commission proposed these amendments in March 2004. Investment Company Act Release No. 26383 (March 11, 2004) [69 FR 12752 (March 17, 2004)] (''Proposing Release'').

[7] Management investment companies typically issue shares representing an undivided proportionate interest in a changing pool of securities, and include open-end and closed-end companies. *See* T. Lemke, G. Lins, A. Smith III, Regulation of Investment Companies, Vol. I, ch. 4, § 4.04, at 4–5 (2002). An open-end company is a management company that is offering for sale or has outstanding any redeemable securities of which it is the issuer. A closed-end company is any management company other than an open-end company. *See* Section 5 of the Investment Company Act [15 U.S.C. 80a–5]. Open-end companies generally offer and sell new shares to the public on a continuous basis. Closed-end companies generally engage in traditional underwritten offerings of a fixed number of shares and, in most cases, do not offer their shares to the public on a continuous basis.

[8] Item 5(a)(2) of Form N–1A; Item 9.1.c of Form N–2.

[9] Instruction 2 to Item 5(a)(2) of Form N–1A; Instruction 2 to Item 9.1.c. of Form N–2.

○ Portfolio managers' holdings in the funds that they manage; and

• Potential conflicts of interest between the interests of shareholders in a fund that a portfolio manager oversees, and the interests of other clients and investment vehicles, such as hedge funds and pension funds, that a portfolio manager may also oversee.[10]

In order to address these concerns, earlier this year the Commission proposed rules intended to provide greater transparency regarding portfolio managers, their incentives in managing a fund, and potential conflicts of interest (''Proposing Release''). These proposals were designed to assist investors in evaluating fund management and making investment decisions.

The Commission received 34 comment letters relating to the proposals. The commenters generally supported the proposals, although some expressed concerns regarding portions of the disclosure or suggested changes. Today, the Commission is adopting these proposals, with modifications to address commenters' concerns. The amendments that the Commission is adopting will:

• Require a fund to identify in its prospectus each member of a committee, team, or other group of persons that is jointly and primarily responsible for the day-to-day management of the fund's portfolio (or, in the case of a team with more than five such members, the five members with the most significant responsibility for the day-to-day management of the fund's portfolio);

• Require a fund to provide information in its Statement of Additional Information (''SAI'')[11] regarding other accounts managed by any of its portfolio managers, including a description of material conflicts of interest that may arise in connection with simultaneously managing the fund and the other accounts;

• Require a fund to disclose in its SAI the structure of, and the method used to determine, the compensation of each portfolio manager;

• Require a fund to disclose in its SAI each portfolio manager's ownership of securities in the fund; and

• Require a closed-end fund to provide disclosure regarding its portfolio managers in its reports on Form N–CSR.[12]

II. Discussion

A. Identification of Portfolio Management Team Members

The Commission is adopting, with modifications to address commenters' concerns, proposed amendments to Forms N–1A and N–2, the registration forms for mutual funds and closed-end funds, that will require those funds to identify in their prospectuses each member of a committee, team, or other group of persons associated with the fund or its investment adviser that is jointly and primarily responsible for the day-to-day management of the fund's portfolio.[13] The amendments we are adopting will require funds to state the name, title, length of service, and business experience of each member of a portfolio management team.

We are also adopting amendments to Form N–3, the registration form for insurance company managed separate accounts that issue variable annuity contracts, to require disclosure regarding portfolio managers, including members of portfolio management teams, similar to the disclosure that will be required by Forms N–1A and N–2.[14] Currently, Form N–3 does not require disclosure about portfolio managers.

Commenters generally supported the Commission's proposal to require improved disclosure about members of portfolio management teams. However, several commenters expressed concern that, while a requirement to identify the members of a portfolio management team may be appropriate for teams that consist of a relatively small number of members, the disclosure could become lengthy and less meaningful in the case of larger teams. Some of these commenters noted that some portfolio management teams consist of both portfolio managers, who have authority to make management decisions, and analysts and other junior members, who have no decision-making authority. These commenters argued that the proposed disclosure requirement could be interpreted to require disclosure of every such junior member of a management team, which would result in lengthy disclosure that would have to be updated frequently, whenever the composition of the team changed. In addition, some commenters argued that a requirement to identify all members of a portfolio management team could inhibit an adviser's ability to change the composition of a team.

We note that, under the amendments we are adopting, disclosure is only required with respect to members of a management team who are jointly and primarily responsible for the day-to-day management of the fund's portfolio. To the extent that a fund is managed by a committee, team, or other group that includes additional members who are not jointly and primarily responsible for day-to-day management, identification of these individuals is not required. Thus, if a fund has a management team that includes analysts who make securities recommendations with respect to the portfolio, but do not have decision-making authority, these individuals would not have to be identified, unless they are jointly and primarily responsible for day-to-day management of the fund's portfolio. An analyst could be jointly and primarily responsible for day-to-day management if, for example, the individual who has decision-making authority over the fund's portfolio routinely adopts the analyst's recommendations.

We are, however, modifying our proposal in response to the commenters' concerns to provide that if more than five persons are jointly and primarily responsible for the day-to-day management of a fund's portfolio, the fund need only provide the required information for the five persons with the most significant responsibility.[15] This will permit funds with large numbers of persons that are jointly and primarily responsible for portfolio management to provide information about the key decision-makers rather than lengthy disclosure about numerous individuals that would obscure other important information in the prospectus.

The determination of the members of a portfolio management team who are jointly and primarily responsible for the day-to-day management of a fund's portfolio will depend on the facts and circumstances of the particular fund. For example, in the case of a fund with a large management team, where a single ''lead member'' is responsible for implementing and monitoring the overall portfolio management of the

[10] *See* Proposing Release, *supra* note 6, 69 FR at 12752–12753, nn. 8–13 and accompanying text (discussing concerns about portfolio managers).

[11] The SAI is part of a fund's registration statement and contains information about a fund in addition to that contained in the prospectus. The SAI is required to be delivered to investors upon request and is available on the Commission's Electronic Data Gathering, Analysis, and Retrieval System.

[12] A fund is currently required to provide portfolio manager disclosure regardless of whether the portfolio manager is employed by the investment adviser or a subadviser. This would continue under the requirements we are adopting. *See* Section 2(a)(20)(B) of the Investment Company Act [15 U.S.C. 80a–2(a)(20)(B)] (''investment adviser'' includes any person who provides investment advice to an investment company under a contract with an investment adviser to the company).

[13] Item 5(a)(2) and Instruction 2 to Item 5(a)(2) of Form N–1A; Item 9.1.c and Instruction to Item 9.1.c of Form N–2.

[14] Item 6(e) of Form N–3.

[15] Instruction 2 to Item 5(a)(2) of Form N–1A; Instruction to Item 9.1.c of Form N–2; Instruction 2 to Item 6(e) of Form N–3.

fund, it may be appropriate to identify this single ''lead member'' as the portfolio manager. Some funds with large management teams are ''research-driven'' funds that may have portfolio management teams with as many as 50 members, each of whom is allocated a specified portion of the portfolio over which he or she has independent responsibility for research, stock selection, and portfolio construction. A research-driven fund may have a coordinator with responsibility for allocating the portfolio among the various managers and analysts, implementing trades on behalf of analysts on the team, reviewing the overall composition of the portfolio to ensure its compliance with its stated investment objectives and strategies, and monitoring cash flows. In such a case, it may be appropriate for a fund to identify the coordinator as its portfolio manager. If a research-driven fund does not have such a portfolio coordinator or similar position, it may be appropriate to provide the required information for the five persons with the most significant responsibility for the day-to-day management of the fund's portfolio, for example, the managers with the largest percentages of assets under management.

The amendments also require a fund to provide a brief description of each member's role on the management team (*e.g.*, lead member).[16] We are modifying the proposal to clarify that a fund's description of a member's role on a committee, team, or group must include a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the fund's portfolio.[17] This responds to commenters' suggestions that we require additional disclosure regarding the structure of each management team. The amended requirement is intended to provide investors with a clearer understanding of what an identified portfolio manager does and does not do in the course of day-to-day management of the fund, and the ways in which the responsibilities of any identified portfolio manager relate to those of other members of a portfolio management team, including members who may not be identified in the prospectus as portfolio managers. It will also assist investors in funds with large management teams, such as research-driven funds, in understanding how the responsibilities of an identified portfolio manager may differ from those of a manager who manages a fund on his or her own or with a small team of other managers. For example, if a portfolio management team for a balanced fund has one team member who is responsible only for the overall allocation of the fund's assets among equities, bonds, and money market instruments, and other team members who are responsible only for selection of securities within a particular segment of the fund, the fund's disclosure should describe these limitations in describing each member's role.

B. Disclosure Regarding Other Accounts Managed and Potential Conflicts of Interest

We are adopting, with several modifications to address commenters' concerns, amendments that require a fund to provide disclosure in its SAI regarding other accounts for which the fund's portfolio manager is primarily responsible for the day-to-day portfolio management.[18] If a committee, team, or other group that includes the portfolio manager is jointly and primarily responsible for the day-to-day management of an account, the fund is required to include that account in responding to the disclosure requirement.[19] Commenters generally supported this disclosure requirement, which is designed to enable investors to assess the conflicts of interest to which a portfolio manager may be subject as a result of managing the fund and other portfolios, such as other registered investment companies and hedge funds.[20]

This disclosure requirement, as well as the disclosure requirements discussed below regarding compensation structure and ownership of fund securities,[21] applies to any portfolio manager who is required to be identified in the prospectus. If a fund identifies more than five persons as portfolio managers in its prospectus, it need only provide the required disclosure regarding other accounts managed, compensation, and securities ownership for the five persons with the most significant responsibility for the day-to-day management of the fund's portfolio.

As adopted, the amendments require a fund to disclose the number of other accounts managed by a portfolio manager, and the total assets in the accounts, within each of the following categories: Registered investment companies; other pooled investment vehicles; and other accounts.[22] For each such category, a fund is also required to disclose the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on account performance.[23] We had proposed an additional category of ''other investment companies.'' A commenter suggested, however, that breaking out ''other investment companies'' as a separate category would not be helpful in enabling investors to assess a portfolio manager's potential conflicts of interest. We agree and are eliminating ''other investment companies'' as a separate category. Accounts that would have been included in this category will now be included in ''other pooled investment vehicles.''

The amendments, as adopted, also require a fund to describe any material conflicts of interest that may arise in connection with the portfolio manager's management of the fund's investments, on the one hand, and the investments of the other accounts, on the other.[24] This description would include, for example, material conflicts between the investment strategy of the fund and the investment strategy of the other accounts managed by the portfolio manager and material conflicts in allocation of investment opportunities between the fund and such other accounts. We have limited the conflicts disclosure requirement to material conflicts of interest in order to address commenters' concerns that the proposed requirement would encourage funds to provide an overinclusive, boilerplate list of potential conflicts. A conflict would be material if there is a substantial likelihood that disclosure of the conflict would be viewed by a reasonable investor as significantly altering the ''total mix'' of information available

[16] Instruction 2 to Item 5(a)(2) of Form N–1A; Instruction to Item 9.1.c of Form N–2; Instruction 2 to Item 6(e) of Form N–3. The amendments also delete current Instructions 3 and 4 to Item 5(a)(2) of Form N–1A, which provided additional guidance as to the disclosure obligations of funds for which day-to-day management responsibilities are shared between a portfolio management team and an individual.

[17] Instruction 2 to Item 5(a)(2) of Form N–1A; Instruction 2 to Item 9.1.c of Form N–2; Instruction 2 to Item 6(e) of Form N–3.

[18] Item 15(a) of Form N–1A; Item 21.1 of Form N–2; Item 22(a) of Form N–3.

[19] Instruction 2 to Item 15(a) of Form N–1A; Instruction 2 to Item 21.1 of Form N–2; Instruction 2 to Item 22(a) of Form N–3.

[20] The disclosure requirement applies to accounts managed in a personal capacity as well as accounts managed in a professional capacity. Conflicts of interest may also arise in connection with the manager's management of such accounts.

[21] See Section II.C. ''Disclosure of Portfolio Manager Compensation Structure'' and Section II.D. ''Disclosure of Securities Ownership of Portfolio Managers,'' *infra*.

[22] Item 15(a)(2) of Form N–1A; Item 21.1.b of Form N–2; Item 22(a)(ii) of Form N–3.

[23] Item 15(a)(3) of Form N–1A; Item 21.1.c of Form N–2; Item 22(a)(iii) of Form N–3.

[24] Item 15(a)(4) of Form N–1A; Item 21.1.d of Form N–2; Item 22(a)(iv) of Form N–3.

about the fund.[25] In our view, this would include, for example, a conflict that a reasonable investor would consider likely to affect the manager's professional judgment with respect to management of the fund.

We are not adopting our proposal to require a fund to include a description of the policies and procedures used by the fund or its investment adviser to address conflicts of interest.[26] We agree with several commenters who argued that requiring disclosure of these policies and procedures would result in lengthy disclosure that most investors would not find useful. We note that our recently adopted compliance rules require investment advisers to implement policies and procedures that address conflicts arising from management of multiple funds and accounts, such as the allocation of investment opportunities and the allocation of aggregated trades.[27] The requirement to adopt policies and procedures to address conflicts, coupled with the disclosure of other accounts managed and the material conflicts of interest that may arise, should sufficiently address potential conflicts of interest without burdening investors with extensive, technical disclosure. We emphasize that fund boards of directors and investment advisers are responsible for addressing conflicts of interest that may arise from a portfolio manager's management of multiple accounts, and the disclosure we are requiring does not diminish this responsibility.[28]

Finally, we requested comment in the Proposing Release on whether to prohibit portfolio managers of funds from managing certain types of accounts, such as hedge funds. We have determined not to do so, because we agree with several commenters that a prohibition could reduce investors' access to talented portfolio managers and could have a particularly disruptive effect on smaller investment management firms that may not have the resources to maintain separate staffs for different types of accounts. We believe that the disclosure of other accounts managed and material conflicts of interest, together with the requirement in the compliance rules for policies and procedures to address conflicts, is a preferable approach to addressing conflicts of interest arising from side-by-side management of multiple accounts.

C. Disclosure of Portfolio Manager Compensation Structure

We are adopting, with modifications to address commenters' concerns, a requirement that a fund provide disclosure in its SAI regarding the structure of, and the method used to determine, the compensation of its portfolio managers.[29] Commenters supported this proposal and agreed that it may help investors to better understand a portfolio manager's incentives in managing a fund and shed light on possible conflicts of interest that could arise when a portfolio manager manages other accounts.

The amendments require a description of the structure of, and the method used to determine, the compensation received by a fund's portfolio manager from the fund, its investment adviser, or any other source with respect to management of the fund and any other account included by the fund in response to the disclosure requirement described above regarding other accounts managed by the portfolio manager.[30] This disclosure requirement applies to any portfolio manager who is required to be identified in the prospectus. The amendments do not require disclosure of the value of compensation received by a portfolio manager.[31]

For purposes of the disclosure requirement, compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash.[32] We are modifying the proposal to permit funds to omit disclosure regarding group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements, provided that they do not discriminate in scope, terms, or operation in favor of the portfolio manager or a group of employees that includes the portfolio manager and are available generally to all salaried employees.[33] We agree with several commenters who suggested that, while a portfolio manager may often receive certain benefits of this type as part of his or her overall compensation, requiring disclosure about these benefits would be of little or no value to investors in assessing whether the manager's interests are aligned with those of investors.

For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), a fund is required to describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how) compensation is based on the fund's pre-or after-tax performance over a certain period, and whether (and, if so, how) compensation is based on the value of assets held in the fund's portfolio.[34] This description is required to clearly disclose any differences between the method used to determine the portfolio manager's compensation with respect to the fund and other accounts, *e.g.*, if the portfolio manager receives part of an advisory fee that is based on performance with respect to some accounts but not the fund, this must be disclosed.[35]

We have modified the proposal in order to elicit better disclosure of the basis on which a portfolio manager is compensated. We have made these changes based on commenters' suggestions that a fund should be required to disclose the specific metrics used to measure performance. We believe that where compensation is based on criteria such as performance,

[25] *See TSC Industries, Inc.* v. *Northway, Inc.*, 426 U.S. 438, 449 (1976).

[26] Proposed Item 15(a)(4) of Form N–1A; proposed Item 21.1.d of Form N–2; proposed Item 22(a)(iv) of Form N–3.

[27] *See* Investment Company Act Release No. 26299 (Dec. 17, 2003) [68 FR 74714, 74716 (Dec. 24, 2003)] (adopting rule 206(4)–7 under the Investment Advisers Act of 1940 and rule 38a–1 under the Investment Company Act).

[28] *See* Investment Company Act Release No. 26323 (Jan. 15, 2004) [69 FR 3472, 3472–3473 (Jan. 23, 2004)] (discussing responsibility of independent directors to bring " 'a high degree of rigor and skeptical objectivity to the evaluation of [fund] management and its plans and proposals,' particularly when evaluating conflicts of interest"); Mutual Fund Directors Forum, Report Of The Mutual Fund Directors Forum: Best Practices And Practical Guidance For Mutual Fund Directors 35–36 (July 2004) (recommending that a fund's board establish a process for identifying and reviewing conflicts of interest, including potential conflicts of interest that may arise between the fund and its adviser or affiliates due to other business activities of the adviser or affiliates).

[29] Item 15(b) of Form N–1A; Item 21.2 of Form N–2; Item 22(b) of Form N–3.

[30] *See* Section II.B, "Disclosure Regarding Other Accounts Managed and Potential Conflicts of Interest," *supra* (describing required disclosure regarding other accounts for which the fund's portfolio manager is primarily responsible); Instruction 3 to Item 15(b) of Form N–1A; Instruction 3 to Item 21.2 of Form N–2; Instruction 3 to Item 22(b) of Form N–3.

[31] Instruction 2 to Item 15(b) of Form N–1A; Instruction 2 to Item 21.2 of Form N–2; Instruction 2 to Item 22(b) of Form N–3.

[32] Instruction 2 to Item 15(b) of Form N–1A; Instruction 2 to Item 21.2 of Form N–2; Instruction 2 to Item 22(b) of Form N–3.

[33] *Cf.* Item 402(a)(7)(ii) of Regulation S–K [17 CFR 229.402(a)(7)(ii)] (permitting operating companies, in disclosing information about executive officers, to omit information regarding group life, health, hospitalization, medical reimbursement, or relocation plans that do not discriminate in scope, terms, or operation in favor of executive officers or directors of the registrant and that are available generally to all salaried employees).

[34] Item 15(b) of Form N–1A; Item 21.2 of Form N–2; Item 22(b) of Form N–3.

[35] Instruction 3 to Item 15(b) of Form N–1A; Instruction 3 to Item 21.2 of Form N–2; Instruction 3 to Item 22(b) of Form N–3.

requiring more detailed disclosure about the criteria may provide greater insight into a manager's incentives to manage a fund's portfolio in a certain way. First, we are requiring that the criteria on which each type of compensation is based be described with specificity. Second, we are clarifying that a fund must not only describe *whether* compensation is based on criteria such as fund pre- or after-tax performance over a certain time period, and the value of assets held in the fund's portfolio, but also how compensation is based on these criteria. For example, if compensation is based solely or in part on performance, a fund is required to identify any benchmark used to measure performance and state the length of the period over which performance is measured.

D. Disclosure of Securities Ownership of Portfolio Managers

We are adopting a requirement that a fund disclose in its SAI the securities ownership in the fund of each portfolio manager who is required to be identified in the fund's prospectus.[36] This disclosure is intended to help investors assess the extent to which the portfolio manager's interests are aligned with theirs.

Commenters generally supported the goal of this proposal. Several commenters argued, however, that while the level of a portfolio manager's securities ownership may be an indicator of the manager's confidence in the fund's investment strategy where the manager owns shares in the fund, it does not necessarily follow that a manager who owns few or no securities has any less confidence or is any less concerned about the fund's performance. We continue to believe, however, that a portfolio manager's ownership in a fund provides a direct indication of his or her alignment with the interests of shareholders in that fund. While a manager could have reasons for not holding shares of a specific fund that are unrelated to the manager's lack of confidence in the fund, *e.g.*, that its investment objectives do not match the manager's, we note that a fund is free to include an explanation of these reasons in its disclosure.

We have modified our proposed disclosure requirement with respect to securities ownership significantly, to address concerns raised by commenters. In particular, we have limited the requirement to a portfolio manager's ownership of equity securities in the fund itself.[37] As a result, we are also eliminating the proposed requirements to include the name of the investment company or account in which the manager owns shares and the title of the class of securities owned, as well as the mandatory tabular format. Our proposed amendments would have required a fund to disclose a portfolio manager's ownership not only of the securities of the fund, but also of the securities of other accounts managed by the fund's investment adviser or the portfolio manager.[38] This disclosure requirement was intended, in part, to assist fund investors in assessing potential conflicts between their interests and the interests of other clients or investment vehicles in which the manager has an interest. We were persuaded by commenters who argued that expanding the disclosure requirement to include securities ownership in other accounts would result in overly detailed, complex disclosure that would not help investors assess the extent to which a portfolio manager's interests are aligned with theirs. In addition, commenters noted that the objective of providing investors with information about conflicts of interest is more effectively addressed by the amendments we are adopting that require disclosure of conflicts and the compensation structure of portfolio managers. The commenters also argued that the disclosure would be time-consuming and burdensome to prepare, particularly in the case of funds with one or more subadvisers.

The disclosure requirement we are adopting applies to fund securities beneficially owned by a portfolio manager.[39] For purposes of the requirement to disclose a portfolio manager's beneficial ownership of fund securities, ''beneficial ownership'' will be determined in accordance with rule 16a–1(a)(2) under the Exchange Act.[40] Our proposal would have required disclosure of securities owned either beneficially or of record, and would have deemed a person to be a ''beneficial owner'' of a security if he or she is a ''beneficial owner'' under either rule 13d–3 under the Exchange Act, which focuses on a person's voting and investment power, or rule 16a–1(a)(2) under the Exchange Act, which focuses on a person's economic interests in a security.[41] We had proposed to require disclosure of record ownership, and a broader definition of beneficial ownership, in order to help investors assess potential conflicts of interest. However, in light of our current objective of providing information about the alignment of managers' and shareholders' economic interests, we believe that disclosure of record holdings should not be required and that the focus of ''beneficial ownership'' should be on whether a manager's economic interests are tied to the securities, rather than his or her ability to exert voting power or to dispose of the securities. This definition is also consistent with the requirements for disclosure of fund securities ownership by fund directors.[42]

Our proposal also would have required disclosure of securities owned by a portfolio manager's immediate family members, and would have defined ''immediate family member'' for this purpose as a person's spouse; child residing in the person's household (including step and adoptive children); and any dependent of the person, as defined in section 152 of the Internal Revenue Code.[43] We are deleting the reference to immediate family members and the proposed definition as unnecessary. Under the definition of beneficial ownership in rule 16a–1(a)(2) under the Exchange Act that we are adopting, a person is presumed to be a beneficial owner of securities that are held by the person's immediate family members sharing the same household.[44]

We are adopting, as proposed, a requirement that funds disclose portfolio managers' ownership of securities in the fund using the

[36] Item 15(c) of Form N–1A; Item 21.3 of Form N–2; Item 22(c) of Form N–3.

[37] A mutual fund that issues two or more series of preferred or special stock each of which is preferred over all other series in respect of assets specifically allocated to that series is required to disclose a portfolio manager's securities ownership in each series in the statement of additional information for that series.

[38] Proposed Item 15(c) of Form N–1A; proposed Item 21.3 of Form N–2; proposed Item 22(c) of Form N–3.

[39] Item 15(c) of Form N–1A; Item 21.3 of Form N–2; Item 22(c) of Form N–3.

[40] Instruction 2 to Item 15(c) of Form N–1A; Instruction 2 to Item 21.3 of Form N–2; Instruction 2 to Item 22(c) of Form N–3; 17 CFR 240.16a–1(a)(2).

[41] Proposed Item 15(c) and Instruction 2 to Item 15(c) of Form N–1A; proposed Item 21.3 and Instruction 2 to Item 21.3 of Form N–2; proposed Item 22(c) and Instruction 2 to Item 22(c) of Form N–3; 17 CFR 240.13d–3; 17 CFR 240.16a–1(a)(2).

[42] Item 12(b)(4) of Form N–1A; Item 18.7 of Form N–2; Item 20(f) of Form N–3.

[43] *See* proposed Item 15(c) and Instruction 4 of Form N–1A; proposed Item 21.3 and Instruction 4 of Form N–2; proposed Item 22(c) and Instruction 4 of Form N–3.

[44] *See* Rule 16a–1(a)(2)(ii)(A) under the Exchange Act [17 CFR 240.16a–1(a)(2)(ii)(A)] (indirect pecuniary interest in securities includes securities held by any member of a person's immediate family sharing the same household). ''Immediate family'' is defined for purposes of rule 16a–1 as any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and includes adoptive relationships. Rule 16a–1(e) under the Exchange Act [17 CFR 240.16a–1(e)].

following dollar ranges: None, $1–$10,000, $10,001–$50,000, $50,001–$100,000, $100,001–$500,000, $500,001–$1,000,000, or over $1,000,000.[45] Commenters' views on this proposed approach varied. Several commenters argued that the maximum dollar range of securities owned should be lowered from ''over $1,000,000'' to ''over $100,000,'' which would be consistent with the requirement for fund directors.[46] These commenters expressed concern that the proposed dollar ranges would require portfolio managers to provide too much information about their net worth and would unduly infringe on their privacy interests. Another commenter, by contrast, argued that any maximum dollar range chosen should accurately reflect the likely value of shares owned by a representative cross section of managers in the mutual fund industry. This commenter suggested that if a lower maximum range of $100,000 were used, an overwhelming majority of managers would likely exceed that threshold. Finally, other commenters suggested that we require disclosure of the precise number of shares of the fund owned by a portfolio manager.

We continue to believe, on balance, that requiring disclosure of securities owned using a maximum dollar range of ''over $1,000,000'' is appropriate. Disclosure of the dollar range of securities owned by a portfolio manager, rather than precise dollar holdings, is intended to provide shareholders with significant information to use in evaluating whether a manager's interests are aligned with their own, while protecting managers' legitimate privacy interests.[47] The maximum range of ''over $1,000,000'' is intended to reflect a level of investment that would be significant. At the same time, we are not persuaded that requiring disclosure of the precise dollar holdings of securities owned is necessary.

E. Date of Disclosure

The required information regarding other accounts managed by a portfolio manager, compensation structure, and ownership of fund securities must be provided as of the end of the fund's most recently completed fiscal year.[48] However, in the case of an initial registration statement or an update to a fund's registration statement that discloses a new portfolio manager, information with respect to any newly identified portfolio manager is required to be provided as of the most recent practicable date.[49] The date as of which the information is provided must be disclosed. In effect, this means that a fund is required to disclose changes to this information with respect to a previously identified portfolio manager once a year, as part of its post-effective amendment that is an annual update to its registration statement.[50] A fund is not required to update its SAI during the year for each change in any of the required information regarding a previously identified portfolio manager, such as changes in the fund securities that a portfolio manager owns.

Several commenters suggested that we should require the information regarding other accounts managed by a portfolio manager, compensation structure, and ownership of fund securities as of the most recent calendar year-end, rather than the fund's most recent fiscal year-end. These commenters noted that a fund complex frequently has multiple funds managed by the same portfolio manager, and argued that requiring information as of the most recent fiscal year-end would complicate the administrative burden of compiling the required disclosure for a portfolio manager who manages several funds with different fiscal year-ends. Another commenter, however, supported requiring the information as of the most recent fiscal year-end, arguing that this approach would strike a reasonable balance between timeliness and practicality. We are adopting the requirement as proposed, because we believe that requiring the disclosure to be provided as of calendar year-end would, in many instances, result in investors receiving excessively stale information. For example, if a fund updated its prospectus on December 1 and provided information about its portfolio managers as of the most recent calendar year-end, investors would receive information that is already 11 months old at the time of the update. We note that other modifications we are making to the amendments, in particular, limiting the disclosure of a portfolio manager's securities ownership to ownership of securities in the fund itself, will significantly reduce the burden to funds of preparing this disclosure.

F. Removal of Exclusion for Index Funds

We are removing the current provision in Form N–1A that excludes a fund that has as its investment objective replication of the performance of an index from the requirement to identify and provide disclosure regarding its portfolio managers.[51] We are removing this exclusion in order to shed light on the alignment of index fund portfolio managers with investors' interests and on their potential conflicts of interest. Commenters were split on the proposed removal of the index fund exclusion. A commenter who objected to the proposal argued that there are few, if any, conflicts between the interests of shareholders of an index fund and those of a portfolio manager who is also managing an actively-managed fund, because the index fund structure imposes strict constraints on the portfolio manager's actions. Another commenter, however, agreed with the Commission that conflicts of interest, such as conflicts in determining trading execution priorities, may arise when a portfolio manager for an index fund also manages an actively-managed fund. We are removing the current index fund exclusion because we continue to believe that concerns about the alignment of portfolio managers and their conflicts of interest are important to investors in index funds.

G. Disclosure of Availability of Information

In order to assist investors in finding the additional information about portfolio managers that is required in the SAI, we are adopting amendments that require a fund to state in its prospectus that the SAI provides this information.[52] This disclosure is required to appear adjacent to the disclosure identifying the portfolio managers.

We are also adopting the proposed requirement that the back cover page of a mutual fund's prospectus state whether the fund makes available its SAI and annual and semi-annual reports, free of charge, on or through its Web site at a specified Internet

[45] Item 15(c) of Form N–1A; Item 21.3 of Form N–2; Item 22(c) of Form N–3.

[46] Item 12(b)(4) of Form N–1A; Item 18.7 of Form N–2; Item 20(f) of Form N–3.

[47] *Cf.* Investment Company Act Release No. 24816 (Jan. 2, 2001) [66 FR 3734, 3741 (Jan. 16, 2001)] (explaining reasons for requiring disclosure of a director's holdings of securities using dollar ranges rather than an exact dollar amount).

[48] Instruction 1 to each of Items 15(a), (b), and (c) of Form N–1A; Instruction 1 to each of Items 21.1, 21.2, and 21.3 of Form N–2; Instruction 1 to each of Items 22(a), (b), and (c) of Form N–3.

[49] This includes an update to a mutual fund's registration statement that adds a new series to the fund.

[50] In the case of a change in portfolio manager, however, a fund is required to update its registration statement to disclose the change and provide information about the new manager as necessary to comply with its obligations under the Securities Act.

[51] Instruction 1 to Item 5(a)(2) of current Form N–1A.

[52] Item 5(a)(2) of Form N–1A; Item 9.1.c of Form N–2; Item 6(e) of Form N–3.

address.[53] If a mutual fund does not make its SAI and shareholder reports available in this manner, the fund is required to disclose the reasons why it does not do so (including, where applicable, that the fund does not have an Internet Web site). We are also adopting amendments to Forms N–2 and N–3 that require similar disclosure on the front cover page of the prospectus for closed-end funds and insurance company managed separate accounts that issue variable annuity contracts.[54] In addition, the amendments to Forms N–2 and N–3 require that the front cover page of the prospectus include a statement explaining how to obtain the fund's shareholder reports and a toll-free (or collect) telephone number for investors to call to request the fund's SAI, annual and semi-annual reports, and other information, and to make shareholder inquiries. They also change from optional to mandatory disclosure of the Commission's Internet Web site address. These requirements are similar to existing requirements of Form N–1A.[55]

H. Amendment of Form N–CSR

Because closed-end funds do not offer their shares continuously, and are therefore generally not required to maintain an updated SAI to meet their obligations under the Securities Act of 1933,[56] we are adopting, as proposed, the requirement that closed-end funds provide disclosure regarding their portfolio managers in their annual reports on Form N–CSR.[57] This will include the basic information (name, title, length of service, and business experience), as well as the disclosure that we are requiring regarding other accounts managed by a portfolio manager, compensation structure, and ownership of fund securities.[58] A closed-end fund is required to disclose any change in its portfolio managers, and to provide all of the required portfolio manager disclosure for any newly identified portfolio manager, in its semi-annual reports on Form N–CSR.[59]

The disclosure in Form N–CSR with respect to the name, title, length of service, and business experience of a portfolio manager is required to be current as of the date of filing of the report, and the disclosure regarding other accounts managed, compensation structure, and fund securities ownership generally is required to be current as of the end of the fund's most recently completed fiscal year.[60] In the case of a newly identified portfolio manager in an annual or semi-annual report, however, this disclosure is required to be current as of the most recent practicable date.[61] This will result in basic information about a closed-end fund's portfolio manager in Form N–CSR that is current on the date of filing, and will make the date with respect to which other disclosure about a portfolio manager is provided consistent with the requirements for the SAI in Forms N–1A, N–2, and N–3.

I. Compliance Date

The effective date of the amendments is October 1, 2004. All initial registration statements on Forms N–1A, N–2, and N–3, and all post-effective amendments that are annual updates to effective registration statements on these forms, filed on or after February 28, 2005, must include the disclosure required by the amendments. Moreover, all post-effective amendments that add a new series, filed on or after February 28, 2005, must comply with the amendments with respect to the new series. Every annual report by a closed-end fund on Form N–CSR filed for a fiscal year ending on or after December 31, 2005, and every semi-annual report by a closed-end fund on Form N–CSR filed after the first such annual report, must include the disclosure required by the amendments. Based on the comments and the changes we have made to the proposed requirements, we believe that this will provide adequate time for funds to compile and review the information that must be disclosed.

III. Paperwork Reduction Act

As explained in the Proposing Release, certain provisions of the amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501, *et seq.*]. The titles for the collections of information are: (1) ''Form N–1A under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Open-End Management Investment Companies''; (2) ''Form N–2 under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Closed-End Management Investment Companies''; (3) ''Form N–3—Registration Statement of Separate Accounts Organized as Management Investment Companies''; and (4) ''Form N–CSR—Certified Shareholder Report of Registered Management Investment Companies.'' 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.

Form N–1A (OMB Control No. 3235–0307), Form N–2 (OMB Control No. 3235–0026), and Form N–3 (OMB Control No. 3235–0316) were adopted pursuant to Section 8(a) of the Investment Company Act [15 U.S.C. 80a–8(a)] and Section 5 of the Securities Act [15 U.S.C. 77e]. Form N–CSR (OMB Control No. 3235–0570) was adopted pursuant to Section 30 of the Investment Company Act [15 U.S.C. 80a–29] and Sections 13 and 15(d) of the Exchange Act [15 U.S.C. 78m and 78o(d)].

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted these proposed collections of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.[62] OMB has approved the collection of information for the amendments to Forms N–2 and N–3. We are resubmitting the collections of information for the amendments to Forms N–1A and N–CSR. We received no comments on any of the proposed collection of information requirements. However, as discussed below, we are requesting comment again with regard to the collection of information requirements related to Forms N–1A and N–CSR.

The amendments to Forms N–1A, N–2, and N–3 adopted in this release require funds to provide improved disclosure regarding their portfolio managers in fund prospectuses and SAIs. The amendments also amend Form N–CSR to require similar disclosure for closed-end funds in reports on Form N–CSR. The paperwork burden estimates for the amendments, described below, represent the estimated total burden annualized over a three-year period. We expect that

[53] Item 1(b)(1) of Form N–1A.

[54] Item 1.1.d of Form N–2; Item 1(a)(vi) of Form N–3.

[55] *See* Items 1(b)(1) and 1(b)(3) of Form N–1A.

[56] Pursuant to rule 8b–16(b) under the Investment Company Act [17 CFR 270.8b–16(b)], closed-end funds are not required to file amendments to their registration statements (including their SAIs) in order to comply with their Investment Company Act registration obligations, provided that they include specified information in their annual reports to shareholders.

[57] Item 8 of Form N–CSR.

[58] Item 8(a) of Form N–CSR.

[59] Item 8(b) of Form N–CSR.

[60] Instruction 1 to Item 8(a)(1), Instruction 1 to Item 8(a)(2), Instruction 1 to Item 8(a)(3), and Instruction 1 to Item 8(a)(4) of Form N–CSR.

[61] Instruction 1 to Item 8(a)(1), Instruction 1 to Item 8(a)(2), Instruction 1 to Item 8(a)(3), Instruction 1 to Item 8(a)(4), and Item 8(b) of Form N–CSR.

[62] *See* Proposing Release, *supra* note 6, 69 FR at 12759–60.

funds will incur greater internal hour burdens and external costs in the first year, but will incur lower burdens and costs in the following two years as funds become more efficient in preparing the disclosure.

Form N–1A

Form N–1A, including the amendments, contains collection of information requirements. The likely respondents to this information collection are open-end funds registering with the Commission. Compliance with the disclosure requirements of Form N–1A is mandatory. Responses to the disclosure requirements are not confidential.

We estimate that, on an annual basis, registrants file initial registration statements on Form N–1A covering 483 portfolios, and file post-effective amendments on Form N–1A covering 6,542 portfolios. The current hour burden for Form N–1A is 1,142,296 hours.[63] We have reduced the estimates provided in the Proposing Release of the increases in the hour burden per portfolio per filing of registration statements and post-effective amendments on Form N–1A related to the amendments, in light of modifications we are making to the proposal that will reduce the burden of the amendments.[64] These modifications include eliminating the requirement to describe policies and procedures related to conflicts and limiting the disclosure of the portfolio managers' ownership of securities to securities of the fund itself. We now estimate that the amendments will increase the hour burden per portfolio per filing of an initial registration statement on Form N–1A by 6 hours and will increase the hour burden per portfolio per filing of a post-effective amendment on Form N–1A by 2 hours. Thus, the incremental hour burden for Form N–1A resulting from the amendments relating to portfolio manager disclosure will be 15,982 hours (483 portfolios filing initial registration statements × 6 hours per portfolio + 6,542 portfolios filing post effective amendments × 2 hours per portfolio). This represents a reduction of 15,016 burden hours from the estimate of 30,998 burden hours contained in the Proposing Release. The estimated total annual hour burden for all funds for the preparation and filing of initial registration statements and post-effective amendments to Form N–1A will be 1,127,280 hours (1,142,296 hours − 15,016 hours).

In addition to reducing the estimate of internal burden hours to take into account modifications to the proposal, we are adding an estimate of external costs to reflect the possibility that funds will engage outside counsel to review the new disclosure and provide related legal services. We estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per portfolio per filing of an initial registration statement on Form N–1A and will incur an additional 0.5 hours of outside counsel time per portfolio per filing of a post-effective amendment on Form N–1A. Thus, we estimate that the incremental external costs for Form N–1A resulting from the amendments will be $1,126,200 ((483 portfolios filing initial registration statements × 1 hour per portfolio + 6,542 portfolios filing post-effective amendments × 0.5 hours per portfolio) × $300 per hour).[65]

Form N–2

Form N–2, including the amendments, contains collection of information requirements. The likely respondents to this information collection are closed-end funds registering with the Commission. Compliance with the disclosure requirements of Form N–2 is mandatory. Responses to the disclosure requirements are not confidential.

We estimate that, on an annual basis, 234 closed-end funds will file initial registration statements on Form N–2 and 38 closed-end funds will file post-effective amendments on Form N–2. The current hour burden for Form N–2 is 134,301 hours. In light of the modifications we are making to the proposal, we now estimate that the amendments will increase the hour burden per filing of an initial registration statement on Form N–2 by 6 hours and the hour burden per filing of a post-effective amendment on Form N–2 by 2 hours.[66] Thus, the incremental hour burden resulting from the amendments relating to portfolio manager disclosure will be 1,480 hours ((6 hours per fund × 234 funds) + (2 hours per fund × 38 funds)). This represents a reduction of 1,012 burden hours from the estimate of 2,492 in the Proposing Release. The total annual hour burden for all funds for preparation and filing of initial registration statements and post-effective amendments on Form N–2 will be 133,289 hours (134,301 hours − 1,012 hours).

As with Form N–1A above, we estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per filing of an initial registration statement on Form N–2 and will incur an additional 0.5 hours of outside counsel time per filing of a post-effective amendment on Form N–2. Thus, we estimate that the incremental external costs for Form N–2 resulting from the amendments will be $75,900 ((1 hour per fund × 234 funds + 0.5 hours per fund × 38 funds) × $300).[67]

Form N–3

Form N–3, including the amendments, contains collection of information requirements. The likely respondents to this information collection are separate accounts, organized as management investment companies offering variable annuities, registering with the Commission on Form N–3. Compliance with the disclosure requirements of Form N–3 is mandatory. Responses to the disclosure requirements are not confidential.

The Commission estimates that, on an annual basis, initial registration statements covering 3 portfolios are filed on Form N–3 and post-effective amendments covering 35 portfolios are filed on Form N–3. The current hour burden for Form N–3 is 34,756 hours. In light of the modifications we are making to the proposal, we now estimate that the amendments will increase the hour burden per portfolio per filing of an initial registration statement on Form N–3 by 6 hours and the hour burden per portfolio per filing of a post-effective amendment on Form N–3 by 2 hours.[68] Thus, the incremental hour burden resulting from the amendments relating

[63] This number includes a requested increase of 30,998 burden hours in connection with the Proposing Release, but does not include a reduction of 17,876 burden hours in connection with the amendments in Investment Company Act Release No. 26486 (June 23, 2004) [69 FR 39798 (June 30, 2004)] that remove disclosure from Form N–1A regarding the reasons for board approval of an investment advisory contract.

[64] In the Proposing Release, we estimated that the amendments would increase the hour burden per portfolio per filing of an initial registration statement on Form N–1A by 10 hours and would increase the hour burden per portfolio per filing of a post-effective amendment to a registration statement on Form N–1A by 4 hours.

[65] The estimated average hourly wage of $300 for outside counsel is based on estimates provided by industry sources to the Commission in connection with other recent rulemakings.

[66] In the Proposing Release, we estimated that the amendments would increase the hour burden per filing of an initial registration statement on Form N–2 by 10 hours and would increase the hour burden per filing of a post-effective amendment on Form N–2 by 4 hours.

[67] See *supra* note 65 regarding the hourly wage estimate for outside counsel.

[68] In the Proposing Release, we estimated that the amendments would increase the hour burden per portfolio per filing of an initial registration statement on Form N–3 by 10 hours and would increase the hour burden per portfolio per filing of a post-effective amendment to a registration statement on Form N–3 by 4 hours.

to portfolio manager disclosure will be 88 hours ((6 hours × 3 portfolios) + (2 hours × 35 portfolios)). This represents a reduction of 82 burden hours from the 170 burden hours estimated in the Proposing Release. The total annual hour burden for all funds for preparation and filing of initial registration statements and post-effective amendments on Form N–3 will be 34,674 hours (34,756 hours − 82 hours).

As with Forms N–1A and N–2 above, we estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per portfolio per filing of an initial registration statement on Form N–3 and will incur an additional 0.5 hours of outside counsel time per portfolio per filing of a post-effective amendment on Form N–3. Thus, we estimate that the incremental external costs for Form N–3 resulting from the amendments will be $6,150 ((1 hour × 3 portfolios) + (0.5 hours × 35 portfolios) × $300).[69]

Form N–CSR

Form N–CSR, including the amendments, contains collection of information requirements. The respondents to this information collection will be closed-end funds subject to rule 30e–1 under the Investment Company Act registering with the Commission on Form N–2. Compliance with the disclosure requirements of Form N–CSR is mandatory. Responses to the disclosure requirements are not confidential.

We estimate that, on an annual basis, 733 closed-end funds registered on Form N–2 file reports on Form N–CSR.[70] The current total annual hour burden for preparing reports on Form N–CSR is 146,053 hours.[71] In light of the modifications we are making to the proposal, we now estimate that the amendments will increase the hour burden per filing of an annual report on Form N–CSR by 2 hours, and will increase the hour burden per filing of a semi-annual report by 1 hour.[72] Thus, the incremental hour burden resulting from the amendments relating to portfolio manager disclosure will be 2,199 hours ((2 hours per fund × 733 closed-end funds) + (1 hour per fund × 733 closed-end funds)). This represents a reduction of 2,199 burden hours from the 4,398 burden hours estimated in the Proposing Release. The total annual hour burden for all funds for preparation and filing of reports on Form N–CSR will be 143,854 hours (146,053 hours − 2,199 hours).

We estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per filing of an annual report on Form N–CSR and will incur an additional 0.5 hours of outside counsel time per filing of a semi-annual report on Form N–CSR. Thus, we estimate that the incremental external costs for Form N–CSR resulting from the amendments will be $329,850 ((1 hour per fund × 733 closed-end funds + 0.5 hours per fund × 733 closed-end funds) × $300).[73]

Request for Comments

The Commission previously submitted burden estimates to OMB for the collections of information with respect to Forms N–1A and N–CSR which have not yet been approved. The amendments as adopted result in modifications to the burden hours associated with these collections of information. Because the burden estimates under review at OMB do not reflect the modifications made by the Commission in this release, we are submitting new estimates to OMB with respect to Forms N–1A and N–CSR and requesting comments on these new estimates. The Commission requests comment in order to:

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility;
- Evaluate the accuracy of the Commission's estimates of the burden of the proposed collections of information;
- Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and
- Evaluate whether there are ways to minimize the burden of the collections of information on the respondents, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Room 10102, New Executive Office Building, Washington, DC 20503, and should send a copy to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549, with reference to File No. S7–12–04. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7–12–04, and be submitted to the Securities and Exchange Commission, Office of Filing and Information Services, 450 Fifth Street, NW., Washington, DC 20549–0609. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release.

IV. Cost/Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. Our amendments will require funds to provide enhanced disclosure about their portfolio managers. Specifically, the amendments will:

- Require a fund to identify in its prospectus each member of a committee, team, or other group of persons that is jointly and primarily responsible for the day-to-day management of the fund's portfolio (or in the case of a team with more than five such members, the five members with the most significant responsibility for the day-to-day management of the fund's portfolio);
- Require a fund to provide information in its SAI regarding other accounts managed by any of its portfolio managers, including a description of material conflicts of interest that may arise in connection with simultaneously managing the fund and the other accounts;
- Require a fund to disclose in its SAI the structure of, and the method used to determine, the compensation of each portfolio manager;

[69] See *supra* note 65 regarding the hourly wage estimate for outside counsel.

[70] The estimate of the number of affected closed-end funds registered on Form N–2 is based on the Commission staff's analysis of reports filed on Form N–SAR in 2003.

[71] This current total annual burden figure does not include the hour burden of 121 hours proposed to be added to Form N–CSR in Investment Company Act Release No. 26206 (Oct. 15, 2003) [68 FR 60784 (Oct. 23, 2003)], in connection with the proposed rules regarding security holder director nominations. It does, however, include the hour burden of 167 hours added to Form N–CSR in Investment Company Act Release No. 26262 (Nov. 24, 2003) [68 FR 69204 (Dec. 11, 2003)], in connection with the adoption of rules requiring disclosure regarding nominating committee functions, and the burden of 4,398 hours in connection with the Proposing Release.

[72] In the Proposing Release, we estimated that the amendments would increase the hour burden per filing of a report on Form N–CSR for closed-end funds by 4 hours per annual report on Form N–CSR, and by 2 hours per semi-annual report on Form N–CSR.

[73] See *supra* note 65 regarding the hourly wage estimate for outside counsel.

• Require a fund to disclose in its SAI each portfolio manager's ownership of securities in the fund; and

• Require a closed-end fund to provide parallel disclosure regarding its portfolio managers in its reports on Form N–CSR.

These amendments are intended to provide greater transparency regarding portfolio managers, their incentives in managing a fund, and the potential conflicts of interest that may arise when they or the adviser that employs them also manages other investment vehicles.

In the Proposing Release, we provided an analysis of the costs and benefits of the proposed amendments, and we requested comments.[74] Although some commenters addressed the costs and benefits of specific substantive provisions of the proposed rules, no commenters commented directly on the Cost/Benefit Analysis or provided figures related to cost-benefit issues.

A. Benefits

The enhanced disclosure regarding portfolio managers that will be required under our amendments will benefit investors in several ways. First, enhanced disclosure regarding portfolio managers who are members of management teams will help investors better evaluate the identity, background, and experience of fund management in cases where the fund is managed using a team approach. Second, requiring a fund to provide disclosure regarding other accounts for which its portfolio managers are primarily responsible for day-to-day portfolio management will enable investors to assess the conflicts of interest to which a portfolio manager may be subject as a result of managing the fund and other portfolios, such as hedge funds. Third, requiring a fund to provide disclosure regarding the structure of, and method used to determine, the compensation of its portfolio managers will help investors better understand a portfolio manager's incentives in running a fund, and will also shed light on possible conflicts of interest that may arise when a portfolio manager manages other accounts. Finally, requiring a fund to disclose the ownership of fund securities of each of its portfolio managers should help investors to assess the extent to which the portfolio manager's interests are aligned with theirs.

B. Costs

The amendments impose new requirements on funds to provide enhanced disclosure regarding their portfolio managers. We estimate that complying with these new disclosure requirements will entail a relatively small financial burden. Much of the information required regarding a fund's portfolio managers, including basic information about their identity and business experience, and information about other accounts that they manage and their compensation structure, should be readily available to a fund's investment adviser. We note that our recently adopted code of ethics rules for investment advisers require portfolio managers to report to the investment adviser information on their securities holdings, including securities in the fund, on an annual basis, and to report information on their securities transactions each calendar quarter.[75] Because a portfolio manager will be required to report information on his or her fund securities ownership periodically, we expect that the cost to a fund of compiling and reporting this information for purposes of the amendments should be limited.

These costs may include both internal costs (for attorneys and other non-legal staff of a fund, such as computer programmers, to prepare and review the required disclosure) and external costs (for printing and typesetting of the disclosure and outside legal counsel). For purposes of the Paperwork Reduction Act, we have estimated that the new disclosure requirements will add 19,749 hours to the internal burden of completing Forms N–1A, N–2, N–3 and N–CSR.[76] We estimate that this additional internal burden will equal total internal costs of $1,654,374 annually, or approximately $435 per fund.[77] In addition, we estimate that the external costs of providing the new disclosure related to expenses for outside legal counsel will equal $1,538,100 annually, or approximately $405 per fund.[78] Thus, the estimated total cost of the new disclosure would be approximately $3,192,474 annually or approximately $840 per fund.

We expect that the external costs relating to the physical delivery of the disclosure required by the amendments, such as printing, typesetting, and mailing, will be minimal, because this disclosure will be required in a fund's SAI (and in the case of a closed-end fund, on Form N–CSR also). The SAI is typically not typeset, and is only required to be provided to shareholders upon request. Similarly, because the disclosure in Form N–CSR for closed-end funds is not required to be delivered to shareholders, we estimate that the external costs of this disclosure will be minimal as well.

V. Consideration of Burden on Competition; Promotion of Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule will have on competition.[79] Section 23(a)(2) also prohibits us from adopting any rule that will impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, Section 2(c) of the Investment Company Act, Section 2(b) of the Securities Act, and Section 3(f) of the Exchange Act require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[80] In the Proposing Release, we requested comments on whether the proposed amendments would promote efficiency, competition, and capital formation. We received no comments on this section of the proposal.

The amendments are intended to provide greater transparency for fund

[74] *See* Section V, ''Cost/Benefit Analysis,'' Proposing Release, *supra* note 6, 69 FR at 12760–61.

[75] *See* Investment Company Act Release No. 26492 (July 2, 2004) [69 FR 41696 (July 9, 2004)] (adopting rule 204A–1(b)(1) under the Investment Advisers Act of 1940).

[76] This represents 23,490 additional hours for Form N–1A, 1,986 additional hours for Form N–2, 129 additional hours for Form N–3, and 2,566 additional hours for Form N–CSR.

[77] These figures are based on a Commission estimate that approximately 3,800 investment companies would be subject to the amendments and an estimated hourly wage rate of $83.77. The estimate of the number of investment companies is based on data derived from the Commission's EDGAR filing system. The estimated wage rate is a blended rate, based on published hourly wage rates for assistant/associate general counsels ($82.05) and programmers ($42.05) in New York City, and the estimate that staff in these categories will divide time equally on compliance with the disclosure requirements, yielding a weighted wage rate of $62.05 (($82.05 x .50) + (42.05 x .50))= $62.05). See Securities Industry Association, *Report on Management & Professional Earnings in the Securities Industry 2003* (Sept. 2003). This weighted wage rate was then adjusted upward by 35% for overhead, reflecting the costs of supervision, space, and administrative support, to obtain the total per hour internal cost of $83.77 ($62.05 x 1.35) = $83.77). This estimated wage rate for compliance attorneys differs from the estimate in the Proposing Release, which was based on published compensation for compliance attorneys in New York City ($74.22) contained in the Securities Industry Association's *Report on Management & Professional Earnings in the Securities Industry 2001* (Oct. 2001).

[78] See *supra* note 65 regarding the hourly wage estimate for outside counsel.

[79] 15 U.S.C. 78w(a)(2).

[80] 15 U.S.C. 77(b), 78c(f), and 80a–2(c).

shareholders regarding the identity, incentives, and potential conflicts of interest of a fund's portfolio managers. These changes may improve efficiency. The enhanced disclosure requirements will enable shareholders to make a more informed assessment as to whether the interests of fund management are aligned with their own interests, which could promote more efficient allocation of investments by investors. These amendments will also improve competition, as enhanced transparency regarding a fund's portfolio managers may encourage investors to consider more carefully the background, incentives, and potential conflicts of interest of the portfolio managers of the funds in which they are invested, or in which they are considering investing. Finally, the effect that the amendments will have on capital formation are unclear.

Although, as noted above, we believe that the amendments will benefit investors, the magnitude of the effect of the amendments on efficiency and competition, and the extent to which they will be offset by the costs of the amendments, are difficult to quantify. We note that most funds are currently required to provide disclosure in their prospectuses regarding the identity and background of their portfolio managers.

VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (''Analysis'') has been prepared in accordance with 5 U.S.C. 603. It relates to the Commission's amendments to Forms N–1A, N–2, and N–3 under the Securities Act and the Investment Company Act, and to Form N-CSR under the Investment Company Act and the Exchange Act, that will require funds to provide improved disclosure about their portfolio managers. We published in the release proposing these amendments an Initial Regulatory Flexibility Analysis (''IRFA''), which we prepared in accordance with 5 U.S.C. 603.

A. Reasons for, and Objectives of, Amendments

Sections I and II of this Release describe the reasons for and objectives of the form amendments. As we discuss in detail above, these amendments are designed to require a fund to provide improved information regarding its portfolio managers, in order to better help investors evaluate their background, incentives in managing the fund, and potential conflicts of interest.

B. Significant Issues Raised by Public Comment

In the IRFA for the proposed amendments, we requested comment on any aspect of the IRFA, including the number of small entities that would be affected by the proposed amendments, the likely impact of the proposal on small entities, the nature of any impact, and providing any empirical data supporting the extent of the impact. We received no comment letters addressing this section.

C. Small Entities Subject to the Rule

For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[81] Approximately 145 mutual funds registered on Form N–1A and approximately 70 closed-end funds registered on Form N–2 meet this definition.[82] We estimate that few, if any, registered separate accounts registered on Form N–3 are small entities.[83]

D. Reporting, Recordkeeping, and Other Compliance Requirements

The amendments will require a fund to identify and provide basic information in its prospectus regarding each member of a team responsible for managing the fund's portfolio. In addition, a fund will be required to provide additional disclosure in its SAI about its portfolio managers, including other accounts they manage, compensation structure, and ownership of fund securities. A closed-end fund will also be required to provide this disclosure in its reports on Form N–CSR.

The Commission estimates some one-time formatting and ongoing costs and burdens that will be imposed on all funds, including funds that are small entities. We note, however, that in many cases mutual funds and closed-end funds currently provide disclosure in their prospectuses about their portfolio managers, including their names, titles, length of service, and business experience. For purposes of the Paperwork Reduction Act, we have estimated that the new disclosure requirements will increase the hour burden of filings on Forms N–1A, N–2, N–3, and N–CSR by 19,749 hours annually, or $1,654,374.[84] We have also estimated that funds will incur an additional $1,583,100 in external costs.[85] We therefore estimate that the amendments will increase total costs per fund, including funds that are small entities, by approximately $3,192,474 annually, or approximately $840 per fund.[86]

We expect that the external costs of providing the additional disclosure relating to a fund's portfolio managers, including other accounts they manage, compensation structure, and ownership of fund securities, will be minimal, because this disclosure will be required in a fund's SAI (and in the case of a closed-end fund, on Form N–CSR also). The SAI is typically not typeset, and is only required to be provided to shareholders upon request. Similarly, because the disclosure in Form N–CSR for closed-end funds is not required to be delivered to shareholders, we estimate that the external costs of this disclosure on Form N–CSR will be minimal as well.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small issuers. In connection with the amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the amendments for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the amendments, or any part thereof, for small entities.

The Commission believes at the present time that special compliance or reporting requirements for small entities, or an exemption from coverage

[81] 17 CFR 270.0–10.

[82] This estimate is based on analysis by the Division of Investment Management staff of information from databases compiled by third-party information providers, including Morningstar, Inc., and Lipper.

[83] This estimate is based on figures compiled by Division of Investment Management staff regarding separate accounts registered on Form N–3. In determining whether an insurance company separate account is a small entity for purposes of the Regulatory Flexibility Act, the assets of insurance company separate accounts are aggregated with the assets of their sponsoring insurance companies. Rule 0–10(b) under the Investment Company Act [17 CFR 270.0–10(b)].

[84] These figures are based on an estimated hourly wage rate of $83.77. *See supra* note 77.

[85] See *supra* note 65 regarding the hourly wage estimate for outside counsel.

[86] See *supra* note 77 regarding the number of investment companies subject to the amendments.

for small entities, would not be appropriate or consistent with investor protection. The amendments will provide investors with greater transparency of information regarding fund portfolio managers, including their compensation structure, other accounts that they manage, and their ownership of securities in the fund. This increased transparency will allow investors to better assess portfolio managers' incentives, alignment with shareholders' interests, and potential conflicts of interest. Different disclosure requirements for funds that are small entities may create the risk that investors in these funds would be less able to evaluate the portfolio management of these funds, and less able to make informed choices among funds. We believe it is important for the disclosure that will be required by the amendments to be provided to investors in all funds, not just funds that are not considered small entities.

We have endeavored through the amendments to minimize the regulatory burden on all funds, including small entities, while meeting our regulatory objectives. For example, we have modified our proposal to eliminate the proposed requirement to describe policies and procedures related to conflicts of interest in the SAI, and to limit the disclosure of a portfolio manager's ownership of securities to securities of the fund that he or she manages. In addition, we have modified our proposed compliance date to allow funds additional time to provide the required disclosure in their initial registration statements and post-effective amendments. Small entities should benefit from the Commission's reasoned approach to the amendments to the same degree as other investment companies. Further clarification, consolidation, or simplification of the amendments for funds that are small entities would be inconsistent with the Commission's concern for investor protection. Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context. Based on our past experience, we believe that the disclosure will be more useful to investors if there are enumerated informational requirements.

VII. Statutory Authority

The Commission is adopting amendments to Forms N–1A, N–2, and N–3 pursuant to authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and sections 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–24(a), 80a–29, and 80a–37]. The Commission is also adopting amendments to Form N–CSR pursuant to authority set forth in sections 10(b), 13, 15(d), 23(a), and 36 of the Exchange Act [15 U.S.C. 78j(b), 78m, 78o(d), 78w(a), and 78mm] and sections 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–24(a), 80a–29, and 80a–37].

List of Subjects

17 CFR Parts 239 and 249

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

■ For the reasons set out in the preamble, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 1. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 2. The authority citation for part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 3. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, and 80a–39, unless otherwise noted.

* * * * *

§ 270.30a–2 [Amended]

■ 4. Section 270.30a–2 is amended by:

■ a. Revising the reference ''Item 11(a)(2)'' in paragraph (a) to read ''Item 12(a)(2)''; and

■ b. Revising the reference ''Item 11(b)'' in paragraph (b) to read ''Item 12(b)''.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 5. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

■ 6. Form N–1A (referenced in §§ 239.15A and 274.11A) is amended by:

■ a. Revising Item 1(b)(1) and Instruction 1 to Item 1(b)(1);

■ b. Revising Item 5(a)(2) and Instructions 1 and 2 to Item 5(a)(2) and removing Instructions 3 and 4 to Item 5(a)(2);

■ c. Redesignating Items 15 through 29 as Items 16 through 30;

■ d. Adding new Item 15;

■ e. In paragraph B.2(b) of the General Instructions, revising the phrase ''(except Items 1, 2, 3, and 8), B, and C (except Items 22(e) and (i)–(k))'' to read ''(except Items 1, 2, 3, and 8), B, and C (except Items 23(e) and (i)–(k))'';

■ f. In Item 2(c)(2)(iii), revising the phrase ''Instruction 5 to Item 21(b)(7)'' to read ''Instruction 5 to Item 22(b)(7)'';

■ g. In Instruction 2(a) to Item 2(c)(2), revising the references ''Item 20(a)'', Item 20(b)(1)'', and ''Items 20(b)(2) and (3)'' to read ''Item 21(a)'', Item 21(b)(1)'', and ''Items 21(b)(2) and (3)'', respectively;

■ h. In Instruction 2(b) to Item 2(c)(2), revising the phrase ''Instruction 6 to Item 21(b)(7)'' to read ''Instruction 6 to Item 22(b)(7)'';

■ i. In Instruction 2(d) to Item 2(c)(2), revising the references ''Item 20(b)(2)'' and ''Item 20'' to read ''Item 21(b)(2)'' and ''Item 21'', respectively;

■ j. In Instruction 4 to Item 2(c)(2), revising the phrase ''Instruction 11 to Item 21(b)(7)'' to read ''Instruction 11 to Item 22(b)(7)'';

■ k. In Instruction to paragraph (a) of newly redesignated Item 18, revising the reference ''Item 17(a)'' to read ''Item 18(a)'';

■ l. In Instruction 4 to paragraph (c) of newly redesignated Item 18 and paragraph (k) of newly redesignated Item 23, revising the reference ''Item 21'' to read ''Item 22'';

■ m. In Instruction 1 to paragraph (c) of newly redesignated Item 20, revising the reference ''Item 29'' to read ''Item 30'';

■ n. In paragraph (b) of newly redesignated Item 27, revising the reference ''Item 19'' to read ''Item 20'';

■ o. In Instruction 2 to paragraph (c) of newly redesignated Item 27, revising the reference ''Item 19(c)'' to read ''Item 20(c)'';

■ p. In paragraph (b)(7)(ii)(B) of newly redesignated Item 22, revising the

reference ''Item 20(b)(1)'' to read ''Item 21(b)(1)'';

■ q. In Instruction to paragraph (c)(1)(ii) of newly redesignated Item 22, revising the references ''Item 21(b)(1)'' and ''Item 21(c)(1)'' to read ''Item 22(b)(1)'' and ''Item 22(c)(1)'', respectively; and

■ r. In Instruction 2(a)(ii) to paragraph (d)(1) of newly redesignated Item 22, revising the reference ''Item 21(d)(1)'' to read ''Item 22(d)(1)''.

The additions and revisions are to read as follows:

Note: The text of Form N–1A does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N–1A

* * * * *

Item 1. Front and Back Cover Pages

* * * * *

(b) *Back Cover Page.* Include the following information, in plain English under rule 421(d) under the Securities Act, on the outside back cover page of the prospectus:

(1) A statement that the SAI includes additional information about the Fund, and a statement to the following effect:

Additional information about the Fund's investments is available in the Fund's annual and semi-annual reports to shareholders. In the Fund's annual report, you will find a discussion of the market conditions and investment strategies that significantly affected the Fund's performance during its last fiscal year.

Explain that the SAI and the Fund's annual and semi-annual reports are available, without charge, upon request, and explain how shareholders in the Fund may make inquiries to the Fund. Provide a toll-free (or collect) telephone number for investors to call: To request the SAI; to request the Fund's annual report; to request the Fund's semi-annual report; to request other information about the Fund; and to make shareholder inquiries. Also, state whether the Fund makes available its SAI and annual and semi-annual reports, free of charge, on or through the Fund's Web site at a specified Internet address. If the Fund does not make its SAI and shareholder reports available in this manner, disclose the reasons why it does not do so (including, where applicable, that the Fund does not have an Internet Web site).

Instructions

1. A Fund may indicate, if applicable, that the SAI, annual and semi-annual reports, and other information are available by E-mail request.

* * * * *

Item 5. Management, Organization, and Capital Structure

(a) * * *

(2) *Portfolio Manager.* State the name, title, and length of service of the person or persons employed by or associated with the Fund or an investment adviser of the Fund who are primarily responsible for the day-to-day management of the Fund's portfolio (''Portfolio Manager''). Also state each Portfolio Manager's business experience during the past 5 years. Include a statement, adjacent to the foregoing disclosure, that the SAI provides additional information about the Portfolio Manager's(s') compensation, other accounts managed by the Portfolio Manager(s), and the Portfolio Manager's(s') ownership of securities in the Fund.

Instructions

1. This requirement does not apply to a Money Market Fund.

2. If a committee, team, or other group of persons associated with the Fund or an investment adviser of the Fund is jointly and primarily responsible for the day-to-day management of the Fund's portfolio, information in response to this Item is required for each member of such committee, team, or other group. For each such member, provide a brief description of the person's role on the committee, team, or other group (*e.g.*, lead member), including a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the Fund's portfolio. If more than five persons are jointly and primarily responsible for the day-to-day management of the Fund's portfolio, the Fund need only provide information for the five persons with the most significant responsibility for the day-to-day management of the Fund's portfolio.

* * * * *

Item 15. Portfolio Managers

(a) *Other Accounts Managed.* If a Portfolio Manager required to be identified in response to Item 5(a)(2) is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

(1) The Portfolio Manager's name;

(2) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(A) Registered investment companies;

(B) Other pooled investment vehicles; and

(C) Other accounts.

(3) For each of the categories in paragraph (a)(2) of this Item, the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on the performance of the account; and

(4) A description of any material conflicts of interest that may arise in connection with the Portfolio Manager's management of the Fund's investments, on the one hand, and the investments of the other accounts included in response to paragraph (a)(2) of this Item, on the other. This description would include, for example, material conflicts between the investment strategy of the Fund and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the Fund and other accounts managed by the Portfolio Manager.

Instructions

1. Provide the information required by this paragraph as of the end of the Fund's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Fund's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons that includes the Portfolio Manager is jointly and primarily responsible for the day-to-day management of the portfolio of an account, include the account in responding to paragraph (a) of this Item.

(b) *Compensation.* Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 5(a)(2). For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how) compensation is based on Fund pre-or after-tax performance over a certain time period, and whether (and, if so, how) compensation is based on the value of assets held in the Fund's portfolio. For example, if compensation is based solely or in part on performance, identify any benchmark used to measure performance and state the length of the period over which performance is measured.

Instructions

1. Provide the information required by this paragraph as of the end of the Fund's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Fund's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. Compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash. Group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements may be omitted, provided that they do not discriminate in scope, terms, or operation in favor of the Portfolio Manager or a group of employees that includes the Portfolio Manager and are available generally to all salaried employees. The value of compensation is not required to be disclosed under this Item.

3. Include a description of the structure of, and the method used to determine, any compensation received by the Portfolio Manager from the Fund, the Fund's investment adviser, or any other source with respect to management of the Fund and any other accounts included in the response to paragraph (a)(2) of this Item. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the Fund and other accounts, *e.g.*, if the Portfolio Manager receives part of an advisory fee that is based on performance with respect to some accounts but not the Fund, this must be disclosed.

(c) *Ownership of Securities.* For each Portfolio Manager required to be identified in response to Item 5(a)(2), state the dollar range of equity securities in the Fund beneficially owned by the Portfolio Manager using the following ranges: none, $1–$10,000, $10,001–$50,000, $50,001–$100,000, $100,001–$500,000, $500,001–$1,000,000, or over $1,000,000.

Instructions

1. Provide the information required by this paragraph as of the end of the Fund's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Fund's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Specify the valuation date.

2. Determine ''beneficial ownership'' in accordance with rule 16a–1(a)(2) under the Exchange Act (17 CFR 240.16a–1(a)(2)).

* * * * *

■ 7. Form N–2 (referenced in §§ 239.14 and 274.11a–1) is amended by:

■ a. Revising Item 1.1.d;

■ b. Revising Item 9.1.c and the Instructions to Item 9.1.c;

■ c. Redesignating Items 21 through 33 as Items 22 through 34;

■ d. Adding new Item 21;

■ e. In paragraph E.3 of the General Instructions, revising the reference ''Item 33.4'' to read ''Item 34.4'';

■ f. In paragraph F of the General Instructions, revising the reference ''Items 4.1 or 23'' to read ''Items 4.1 or 24'';

■ g. In paragraph F of the General Instructions, revising the reference ''Items 4.2, 8.6.c or 23'' to read ''Items 4.2, 8.6.c or 24'';

■ h. In paragraph F of the General Instructions, revising the reference ''Items 4.1, 4.2, 8.6.c or 23'' to read ''Items 4.1, 4.2, 8.6.c or 24'';

■ i. In paragraph F of the General Instructions, revising the reference ''Item 24.1'' to read ''Item 25.1'';

■ j. In paragraph G.3 of the General Instructions, revising the reference ''Items 24.2.h, 24.2.l, 24.2.n, and 24.2.o'' to read ''Items 25.2.h, 25.2.l, 25.2.n, and 25.2.o'';

■ k. In the first paragraph of General Instructions for Part B: Statement of Additional Information, revising the reference ''Item 33.6'' to read ''Item 34.6'';

■ l. In Instruction 6 to Item 1.1.g, revising the reference ''Item 26'' to read ''Item 27'';

■ m. In Instruction 3 to Item 8.6.c, revising the reference ''Item 23'' to read ''Item 24'';

■ n. In Instruction 2 to Item 10.6, revising the reference ''Item 24.2.n'' to read ''Item 25.2n'';

■ o. In newly redesignated Item 24.1.b, revising the reference ''Item 23'' to read ''Item 24'';

■ p. In newly redesignated Item 25.2.o, revising the reference ''Items 8.6 or 23'' to read ''Items 8.6 or 24''; and

■ q. In Instruction 2 to newly redesignated Item 25, revising the reference ''Items 8.6 or 23'' to read ''Items 8.6 or 24''.

The additions and revisions are to read as follows:

Note: The text of Form N–2 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–2

* * * * *

Item 1. Outside Front Cover

1. * * *

d. A statement that (A) The prospectus sets forth concisely the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; and (C) additional information about the Registrant has been filed with the Commission and is available upon written or oral request and without charge. (This statement should explain how to obtain the SAI, whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the SAI appears in the prospectus. This statement should also explain how to obtain the Registrant's annual and semi-annual reports to shareholders. Provide a toll-free (or collect) telephone number for investors to call: to request the SAI; to request the Registrant's annual report; to request the Registrant's semi-annual report; to request other information about the Registrant; and to make shareholder inquiries. Also state whether the Registrant makes available its SAI and annual and semi-annual reports, free of charge, on or through the Registrant's Web site at a specified Internet address. If the Registrant does not make its SAI and shareholder reports available in this manner, disclose the reasons why it does not do so (including, where applicable, that the Registrant does not have an Internet Web site.) Also include the information that the Commission maintains an Internet Web site (*http://www.sec.gov*) that contains the SAI, material incorporated by reference, and other information regarding registrants.);

* * * * *

Item 9. Management

1. * * *

c. *Portfolio Management:* the name, title, and length of service of the person or persons employed by or associated with the Registrant or an investment adviser of the Registrant who are primarily responsible for the day-to-day management of the Registrant's portfolio (''Portfolio Manager''). Also state each Portfolio Manager's business experience during the past 5 years. Include a statement, adjacent to the foregoing disclosure, that the SAI provides additional information about the Portfolio Manager's(s') compensation, other accounts managed by the Portfolio Manager(s), and the Portfolio Manager's(s') ownership of securities in the Registrant.

Instruction

If a committee, team, or other group of persons associated with the Registrant or an investment adviser of the Registrant is jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, information in response to this Item is required for each member of such committee, team, or other group. For each such member, provide a brief description of the person's role on the committee, team, or other group (*e.g.*, lead member), including a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the Registrant's portfolio. If more than five persons are jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, the Registrant need only provide information for the five persons with the most significant responsibility for the day-to-day management of the Registrant's portfolio.

* * * * *

Item 21. Portfolio Managers

1. *Other Accounts Managed:* If a Portfolio Manager required to be identified in response to Item 9.1.c is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

a. The Portfolio Manager's name;

b. The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(1) Registered investment companies;

(2) Other pooled investment vehicles; and

(3) Other accounts.

c. For each of the categories in Item 21.1.b., the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on the performance of the account; and

d. A description of any material conflicts of interest that may arise in connection with the Portfolio Manager's management of the Registrant's investments, on the one hand, and the investments of the other accounts included in response to Item 21.1b., on the other. This description would include, for example, material conflicts between the investment strategy of the Registrant and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the Registrant and other accounts managed by the Portfolio Manager.

Instructions

1. Provide the information required by Item 21.1 as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons that includes the Portfolio Manager is jointly and primarily responsible for the day-to-day management of the portfolio of an account, include the account in responding to Item 21.1.

2. *Compensation:* Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 9.1.c. For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how) compensation is based on the Registrant's pre- or after-tax performance over a certain time period, and whether (and, if so, how) compensation is based on the value of assets held in the Registrant's portfolio. For example, if compensation is based solely or in part on performance, identify any benchmark used to measure performance and state the length of the period over which performance is measured.

Instructions

1. Provide the information required by Item 21.2 as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. Compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash. Group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements may be omitted, provided that they do not discriminate in scope, terms, or operation in favor of the Portfolio Manager or a group of employees that includes the Portfolio Manager and are available generally to all salaried employees. The value of compensation is not required to be disclosed under this Item.

3. Include a description of the structure of, and the method used to determine, any compensation received by the Portfolio Manager from the Registrant, the Registrant's investment adviser, or any other source with respect to management of the Registrant and any other accounts included in the response to Item 21.1.b. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the Registrant and other accounts, *e.g.*, if the Portfolio Manager receives part of an advisory fee that is based on performance with respect to some accounts but not the Registrant, this must be disclosed.

3. *Ownership of Securities:* For each Portfolio Manager required to be identified in response to Item 9.1.c, state the dollar range of equity securities in the Registrant beneficially owned by the Portfolio Manager using the following ranges: none, $1–$10,000, $10,001–$50,000, $50,001–$100,000, $100,001–$500,000, $500,001–$1,000,000, or over $1,000,000.

Instructions

1. Provide the information required by Item 21.3 as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Specify the valuation date.

2. Determine ''beneficial ownership'' in accordance with rule 16a–1(a)(2) under the Exchange Act (17 CFR 240.16a–1(a)(2)).

* * * * *

■ 8. Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

■ a. Revising Item 1(a)(vi);

■ b. Adding new Item 6(e);

■ c. Redesignating Items 22 through 37 as Items 23 through 38;

■ d. Adding new Item 22;

■ e. In paragraph G of the General Instructions, revising the reference ''Items 4(a) or 27'' to read ''Items 4(a) or 28'';

■ f. In paragraph G(2) of the General Instructions, revising the reference ''Item 28(a)'' to read ''Item 29(a)'';

■ g. In paragraph H(3) of the General Instructions, revising the reference ''Item 28(b)(5), (12), (13), and (14)'' to read ''Items 29(b)(5), (12), (13), and (14)'';
■ h. In Instruction 3(d) of Item 4(b), revising the reference ''Item 27'' to read ''Item 28'';
■ i. In Instruction 2 of Item 9, revising the reference ''Item 26'' to read ''Item 27'';
■ j. In Instruction 1 of newly redesignated Item 24, revising the reference ''Item 23(f)'' to read ''Item 24(f)'';
■ k. In newly redesignated Item 29(b)(14), revising the reference ''Item 27'' to read ''Item 28''; and
■ l. In Instruction 2 of newly redesignated Item 29, revising the reference ''Item 27'' to read ''Item 28''.

The additions and revisions are to read as follows:

Note: The text of Form N–3 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–3

* * * * *

Item 1. Cover Page

(a) * * *

(vi) A statement or statements that (A) The prospectus sets forth information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; and (C) additional information about the Registrant has been filed with the Commission and is available upon written or oral request and without charge (This statement should explain how to obtain the Statement of Additional Information (''SAI''), whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the SAI appears in the prospectus. This statement should also explain how to obtain the Registrant's annual and semi-annual reports to shareholders. Provide a toll-free (or collect) telephone number for investors to call: to request the SAI; to request the Registrant's annual report; to request the Registrant's semi-annual report; to request other information about the Registrant; and to make shareholder inquiries. Also state whether the Registrant makes available its SAI and annual and semi-annual reports, free of charge, on or through the Registrant's Web site at a specified Internet address. If the Registrant does not make its SAI and shareholder reports available in this manner, disclose the reasons why it does not do so (including, where applicable, that the Registrant does not have an Internet Web site.) Also include the information that the Commission maintains an Internet Web site (*http://www.sec.gov*) that contains the SAI, material incorporated by reference, and other information regarding registrants.);

* * * * *

Item 6. Management

* * * * *

(e) The name, title, and length of service of the person or persons employed by or associated with the Registrant or an investment adviser of the Registrant who are primarily responsible for the day-to-day management of the Registrant's portfolio (''Portfolio Manager''). Also state each Portfolio Manager's business experience during the past 5 years. Include a statement, adjacent to the foregoing disclosure, that the SAI provides additional information about the Portfolio Manager's(s') compensation, other accounts managed by the Portfolio Manager(s), and the Portfolio Manager's(s') ownership of securities in the Registrant.

Instructions

1. This requirement does not apply to a Registrant that holds itself out as a money market fund and meets the maturity, quality, and diversification requirements of rule 2a–7 [17 CFR 270.2a–7].

2. If a committee, team, or other group of persons associated with the Registrant or an investment adviser of the Registrant is jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, information in response to this Item is required for each member of such committee, team, or other group. For each such member, provide a brief description of the person's role on the committee, team, or other group (*e.g.*, lead member), including a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the Registrant's portfolio. If more than five persons are jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, the Registrant need only provide information for the five persons with the most significant responsibility for the day-to-day management of the Registrant's portfolio.

* * * * *

Item 22. Portfolio Managers

(a) If a Portfolio Manager required to be identified in response to Item 6(e) is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

(i) The Portfolio Manager's name;

(ii) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(A) Registered investment companies;

(B) Other pooled investment vehicles; and

(C) Other accounts.

(iii) For each of the categories in paragraph (a)(ii) of this Item, the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on the performance of the account; and

(iv) A description of any material conflicts of interest that may arise in connection with the Portfolio Manager's management of the Registrant's investments, on the one hand, and the investments of the other accounts included in response to paragraph (a)(ii) of this Item, on the other. This description would include, for example, material conflicts between the investment strategy of the Registrant and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the Registrant and other accounts managed by the Portfolio Manager.

Instructions

1. Provide the information required by paragraph (a) of this Item as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons that includes the Portfolio Manager is jointly and primarily responsible for the day-to-day management of the portfolio of an account, include the account in responding to paragraph (a) of this Item.

(b) Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 6(e). For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how)

compensation is based on the Registrant's pre-or after-tax performance over a certain time period, and whether (and, if so, how) compensation is based on the value of assets held in the Registrant's portfolio. For example, if compensation is based solely or in part on performance, identify any benchmark used to measure performance and state the length of the period over which performance is measured.

Instructions

1. Provide the information required by paragraph (b) of this Item as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. Compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash. Group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements may be omitted, provided that they do not discriminate in scope, terms, or operation in favor of the Portfolio Manager or a group of employees that includes the Portfolio Manager and are available generally to all salaried employees. The value of compensation is not required to be disclosed under this Item.

3. Include a description of the structure of, and the method used to determine, any compensation received by the Portfolio Manager from the Registrant, the Registrant's investment adviser, or any other source with respect to management of the Registrant and any other accounts included in the response to paragraph (a)(ii) of this Item. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the Registrant and other accounts, *e.g.*, if the Portfolio Manager receives part of an advisory fee that is based on performance with respect to some accounts but not the Registrant, this must be disclosed.

(c) For each Portfolio Manager required to be identified in response to Item 6(e), state the dollar range of equity securities in the Registrant beneficially owned by the Portfolio Manager using the following ranges: none, $1–$10,000, $10,001–$50,000, $50,001–$100,000, $100,001–$500,000, $500,001–$1,000,000, or over $1,000,000.

Instructions

1. Provide the information required by paragraph (c) of this Item as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Specify the valuation date.

2. Determine ''beneficial ownership'' in accordance with rule 16a–1(a)(2) under the Exchange Act (17 CFR 240.16a–1(a)(2)).

* * * * *

■ 9. Form N–CSR (referenced in §§ 249.331 and 274.128) is amended by:

■ a. Revising the reference ''11(a)(1)'' in General Instruction D and paragraphs (c) and (f)(1) of Item 2 to read ''12(a)(1) '';

■ b. Redesignating Items 8 through 11 as Items 9 through 12; and

■ c. Adding new Item 8.

The additions and revisions are to read as follows:

Note: The text of Form N–CSR does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–CSR

* * * * *

Item 8. Portfolio Managers of Closed-End Management Investment Companies

(a) If the registrant is a closed-end management investment company that is filing an annual report on this Form N–CSR, provide the following information:

(1) State the name, title, and length of service of the person or persons employed by or associated with the registrant or an investment adviser of the registrant who are primarily responsible for the day-to-day management of the registrant's portfolio (''Portfolio Manager''). Also state each Portfolio Manager's business experience during the past 5 years.

Instructions to Paragraph (a)(1)

1. Provide the information required by this paragraph as of the date of filing of the report. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons associated with the registrant or an investment adviser of the registrant is jointly and primarily responsible for the day-to-day management of the registrant's portfolio, information in response to this Item is required for each member of such committee, team, or other group. For each such member, provide a brief description of the person's role on the committee, team, or other group (*e.g.*, lead member), including a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the registrant's portfolio. If more than five persons are jointly and primarily responsible for the day-to-day management of the registrant's portfolio, the registrant need only provide information for the five persons with the most significant responsibility for the day-to-day management of the registrant's portfolio.

(2) If a Portfolio Manager required to be identified in response to paragraph (a)(1) of this Item is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

(i) The Portfolio Manager's name;

(ii) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(A) Registered investment companies;

(B) Other pooled investment vehicles; and

(C) Other accounts.

(iii) For each of the categories in paragraph (a)(2)(ii) of this Item, the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on the performance of the account; and

(iv) A description of any material conflicts of interest that may arise in connection with the Portfolio Manager's management of the registrant's investments, on the one hand, and the investments of the other accounts included in response to paragraph (a)(2)(ii) of this Item, on the other. This description would include, for example, material conflicts between the investment strategy of the registrant and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the registrant and other accounts managed by the Portfolio Manager.

Instructions to Paragraph (a)(2)

1. Provide the information required by this paragraph as of the end of the registrant's most recently completed fiscal year, except that, in the case of any newly identified Portfolio Manager,

information must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons that includes the Portfolio Manager is jointly and primarily responsible for the day-to-day management of the portfolio of an account, include the account in responding to paragraph (a)(2) of this Item.

(3) Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to paragraph (a)(1) of this Item. For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how) compensation is based on the registrant's pre-or after-tax performance over a certain time period, and whether (and, if so, how) compensation is based on the value of assets held in the registrant's portfolio. For example, if compensation is based solely or in part on performance, identify any benchmark used to measure performance and state the length of the period over which performance is measured.

Instructions to Paragraph (a)(3)

1. Provide the information required by this paragraph as of the end of the registrant's most recently completed fiscal year, except that, in the case of any newly identified Portfolio Manager, information must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. Compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash. Group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements may be omitted, provided that they do not discriminate in scope, terms, or operation in favor of the Portfolio Manager or a group of employees that includes the Portfolio Manager and are available generally to all salaried employees. The value of compensation is not required to be disclosed under this Item.

3. Include a description of the structure of, and the method used to determine, any compensation received by the Portfolio Manager from the registrant, the registrant's investment adviser, or any other source with respect to management of the registrant and any other accounts included in the response to paragraph (a)(2)(ii) of this Item. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the registrant and other accounts, *e.g.*, if the Portfolio Manager receives part of an advisory fee that is based on performance with respect to some accounts but not the registrant, this must be disclosed.

(4) For each Portfolio Manager required to be identified in response to paragraph (a)(1) of this Item, state the dollar range of equity securities in the registrant beneficially owned by the Portfolio Manager using the following ranges: none, $1–$10,000, $10,001–$50,000, $50,001–$100,000, $100,001–$500,000, $500,001–$1,000,000, or over $1,000,000.

Instructions to paragraph (a)(4)

1. Provide the information required by this paragraph as of the end of the registrant's most recently completed fiscal year, except that, in the case of any newly identified Portfolio Manager, information must be provided as of the most recent practicable date. Specify the valuation date.

2. Determine ''beneficial ownership'' in accordance with rule 16a–1(a)(2) under the Exchange Act (17 CFR 240.16a–1(a)(2)).

(b) If the registrant is a closed-end management investment company that is filing a report on this Form N–CSR other than an annual report, disclose any change, as of the date of filing, in any of the Portfolio Managers identified in response to paragraph (a)(1) of this Item in the registrant's most recent annual report on Form N–CSR. In addition, for any newly identified Portfolio Manager, provide the information required by paragraph (a)(1) of this Item as of the date of filing of the report and the information required by paragraphs (a)(2), (a)(3), and (a)(4) of this Item as of the most recent practicable date.

* * * * *

Dated: August 23, 2004.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–19575 Filed 8–26–04; 8:45 am]

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Friday, August 27, 2004

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