1–15–98
Vol. 63 No. 10
Pages 2305–2592

federal register

Thursday
January 15, 1998

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register* on *GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the **Federal Register** on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov; by faxing to (202) 512–1262; or by calling toll free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN: January 27, 1998 at 9:00 am, and February 17, 1998 at 9:00 am.

WHERE: Office of the Federal Register Conference Room
800 North Capitol Street NW., Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 63, No. 10

Thursday, January 15, 1998

Agricultural Marketing Service
NOTICES
Canned beets, canned carrots, and canned white potatoes; United States Standards for Grades, 2356–2357
Canned sweet potatoes; United States Standards for Grades, 2357–2358

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration

Assassination Records Review Board
NOTICES
Meetings; Sunshine Act, 2361

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2394–2396

Children and Families Administration
RULES
Head Start Program:
Early Head Start program; performance standards for grantees and agencies providing services; implementation; correction, 2312–2314

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Massachusetts, 2361–2362

Coast Guard
RULES
Drawbridge operations:
New Jersey, 2308–2312

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

Consumer Product Safety Commission
NOTICES
Applications, hearings, determinations, etc.:
Black & Decker Corp., 2367

Defense Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2367–2369
Meetings:
Science Board, 2369

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2370–2371
Grants and cooperative agreements; availability, etc.:
Special education and rehabilitative services—
Children with disabilities programs, etc., 2588–2591

Employment and Training Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2420–2421

Energy Department
See Federal Energy Regulatory Commission
See Southwestern Power Administration
NOTICES
Atomic energy agreements; subsequent arrangements, 2372
Applications, hearings, determinations, etc.:
Comprehensive National Energy Strategy, 2371–2372

Environmental Protection Agency
NOTICES
Committees; establishment, renewal, termination, etc.:
National Drinking Water Advisory Council, 2391
Meetings:
National Drinking Water Advisory Council, 2391–2392

Export Administration Bureau
RULES
Export licensing:
Commerce control list—
Wassenaar Arrangement List of Dual-Use Items; implementation; commerce control list revisions and reporting requirements, 2452–2555

Federal Communications Commission
RULES
Common carrier services:
Competitive bidding procedures, 2315–2350
Radio stations; table of assignments:
Kansas, 2350
Mississippi, 2350
Washington, 2350–2351
Wyoming, 2351–2352
PROPOSED RULES
Radio stations; table of assignments:
Colorado, 2354
Florida, 2354
Texas, 2355
NOTICES
Reporting and recordkeeping requirements, 2392

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 2392–2393

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Georgia Power Co. et al., 2375–2378
Pacific Gas & Electric Co. et al., 2378–2381
Hydroelectric applications, 2381–2383
Applications, hearings, determinations, etc.:
Central Maine Power Co., 2372
CNG Transmission Corp., 2373

Consumers Energy Co., 2373
Egan Hub Partners, L.P., 2373
Equitrans, L.P., 2373–2374
Granite State Gas Transmission, Inc., 2374
Idaho Power Co., 2374
LG&E Natural Pipeline Co., 2374–2375
West Texas Gas, Inc., 2375
Williams Natural Gas Co.; correction, 2449

Federal Maritime Commission
NOTICES
Agreements filed, etc., 2393
Freight forwarder licenses:
International Forwarding & Logistics, Inc., et al., 2393

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 2393
Formations, acquisitions, and mergers, 2393–2394
Permissible nonbanking activities, 2394

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 2405–2407
Marine mammals permit applications, 2407–2408

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Chloretracycline, sulfathiazole, penicillin, 2306–2307
NOTICES
Harmonisation International Conference; guidelines availability:
E2B data elements for transmission of individual case safety reports, 2396–2404
Meetings:
Life Sciences Research Office, 2404–2405

Forest Service
NOTICES
Environmental statements; notice of intent:
Bridger-Teton National Forest, WY, 2358–2360

Grain Inspection, Packers and Stockyards Administration
PROPOSED RULES
Agricultural commodities standards:
Inspection services; use of contractors; meaning of terms and who may be licensed, 2353–2354
NOTICES
Barge inspection services:
Pilot program, 2360–2361

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Public Health Service
NOTICES
Meetings:
Consumer Protection and Quality Advisory Commission, 2394

Health Care Financing Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2405

Indian Affairs Bureau
NOTICES
Reservation establishment, additions, etc.:
Cow Creek Band of Umpqua Indian Tribe, OR, 2408–2409

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping:
Ferrosilicon from—
Brazil, 2362–2363
Tapered roller bearings and parts, finished and unfinished, etc., from—
Japan, 2558–2585

International Trade Commission
NOTICES
Import investigations:
Broad-based consumption tax; U.S. trade and competitiveness, 2413–2414
Steel wire rope from—
Thailand, 2414–2415

Justice Department
See Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2415
Submission for OMB review; comment request, 2415–2416

Justice Programs Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Public housing; building safer communities, 2416
Victims of Crime Act; State compensation and assistance, 2416–2417

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration
NOTICES
Privacy Act:
Systems of records, 2417–2420

Land Management Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2409
Environmental statements; availability, etc.:
Ashley and Uinta National Forests; Duchesne and Wasatch Counties, UT, 2409–2410
Meetings:
Resource advisory councils—
New Mexico, 2410
Public land and resource management, improvement by science use; meeting, 2411
Realty actions; sales, leases, etc.:
Idaho, 2411–2412

National Credit Union Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2421

Credit unions:
Community development revolving loan program; 1998 application period, 2422

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Trinity Trailer Mfg., Inc., 2446

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Western Pacific Fishery Management Council, 2363–2364
Permits:
Endangered and threatened species, 2364–2366
Marine mammals, 2366–2367

National Park Service
NOTICES
Environmental statements; availability, etc.:
Oregon Caves National Monument, OR, 2412
Environmental statements; notice of intent:
Glen Echo Park, MD, 2412–2413
Meetings:
Keweenaw National Historical Park Advisory Commission, 2413

National Science Foundation
NOTICES
Antartic Conservation Act of 1978; permit applications, etc., 2422

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2422–2423
Environmental statements; availability, etc.:
Vermont Yankee Nuclear Power Corp., 2425–2426
Regulatory guides; issuance, availability, and withdrawal, 2426
Applications, hearings, determinations, etc.:
Florida Power Corp., 2423–2425

Occupational Safety and Health Administration
NOTICES
Meetings:
Occupational Safety and Health National Advisory Committee, 2421

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
Allocation of assets—
Interest assumptions for valuing benefits, 2307–2308
NOTICES
Single-employer and multiemployer plans:
Interest rates and assumptions, 2426–2427

Personnel Management Office
RULES
Organizations representing Federal employees and other organizations; agency relationships, 2305–2306

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
NOTICES
Organization, functions, and authority delegations:
Centers for Disease Control and Prevention; correction, 2449

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2428
Meetings; Sunshine Act, 2436
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 2437–2443
Applications, hearings, determinations, etc.:
Goldman, Sachs & Co. et al., 2428–2435
Government Securities Clearing Corp., 2435–2436
Public utility holding company filings, 2436

Southwestern Power Administration
NOTICES
Integrated System power rates and opportunities:
New power rates; rate order approved and placed in effect on interim basis, 2383–2389
Power rates:
Robert D. Willis project, 2390–2391

State Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2443–2446

Transportation Department
See Coast Guard
See National Highway Traffic Safety Administration

Treasury Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2446–2447

United States Information Agency
NOTICES
Grants and cooperative agreements; availability, etc.:NIS college and university partnerships program, 2447–2448

Separate Parts In This Issue

Part II
Department of Commerce, Export Administration, 2452–2555

Part III
Department of Commerce, International Trade Administration, 2558–2585

Part IV
Department of Education, 2588–2591

Reader Aids
Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board

Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
251.....2305

7 CFR

Proposed Rules:
868.....2353

15 CFR
732.....2452
740.....2452
742.....2452
743.....2452
744.....2452
746.....2452
762.....2452
774.....2452

21 CFR
558.....2306

29 CFR
4044.....2307

33 CFR
117.....2308

45 CFR
1301.....2312
1304.....2312
1305.....2312
1306.....2312

47 CFR
1.....2315
21.....2315
24.....2315
26.....2315
27.....2315
73 (5 documents) 2350, 2351
90.....2315
95.....2315

Proposed Rules:
73 (4 documents) 2354, 2355

Rules and Regulations

Federal Register
Vol. 63, No. 10
Thursday, January 15, 1998

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 251

RIN 3206–AH72

Agency Relationships With Organizations Representing Federal Employees and Other Organizations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing agency relations with managerial, supervisory, professional, and other organizations that are not labor organizations. These regulations will permit greater employee representation of employee organizations under certain circumstances.

EFFECTIVE DATE: January 15, 1998.

FOR FURTHER INFORMATION CONTACT: Lorraine Lewis, General Counsel, U.S. Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW., Washington, DC 20415–0001, Telephone: (202) 606–1700, FAX: (202) 606–2609.

SUPPLEMENTARY INFORMATION:

I. Background

OPM published in the **Federal Register** on April 22, 1997, at 62 FR 19525, proposed regulations on agency relationships with organizations representing Federal employees and other organizations. These regulations reflected a provision of the Federal Employee Representation Improvement Act of 1996 which modified the 18 U.S.C. § 205 restrictions to permit employee representation of employee organizations under certain circumstances. The Federal Employee Representation Improvement Act of 1996; Pub. L. 104–177, 110 Stat. 1563, August 6, 1996.

As amended, 18 U.S.C. Section 205(d)(1)(B) allows a Federal officer or employee, if not inconsistent with the performance of his or her duties, to represent without compensation a non-profit cooperative, voluntary, professional, recreational or similar organization if a majority of the organization's or group's members are Government officers or employees or their spouses or dependent children.

Subsection (d)(2) of amended Section 205 sets forth the circumstances in which a Federal employee may not act as agent or attorney representing an employee organization. There are three situations in which an employee is prohibited from representing the views of the organization or group. The first situation prevents employee representation when the subject of the representation is a claim against the United States. 18 U.S.C. § 205(d)(2)(A). The second situation prohibits the prescribed action during a judicial or administrative proceeding where the organization or group is a party. 18 U.S.C. § 205(d)(2)(B). The third situation expressly disallows Federal employees from requesting grants, contracts or Federal funds on behalf of an employee organization. 18 U.S.C. § 205(d)(2)(C). Accordingly, paragraph (f) of the Part 251 regulation is being revised to reflect the new law.

The proposed rule requested comments and prescribed a 60-day comment period. OPM received four comments on the proposed rule, three by public interest organizations and one by a Federal department. The four comments were timely. OPM has carefully considered the points made in the comments and reviewed the entire Part 251 regulation and relevant portions of the Federal Employee Representation Improvement Act of 1996. OPM has decided to make no change to the proposed rule.

II. Summary of Comments

The three public interest organizations that commented on the proposed rule expressed concern that as currently written it may tend to discourage Federal employees from exercising representation rights they may have. It is suggested that the language of the proposed rule is unnecessarily negative in tone and gives the appearance that its primary purpose is to caution Federal employees against serving as representatives for organizations other than labor organizations. The Federal department that commented on the proposed rule asserts that the third situation set out in the supplementary information portion of the proposed rule in which an employee is still prohibited from representing the views of the organization or group is not altogether clear.

III. Analysis of Comments

The three public interest organizations that commented on the proposed rule were concerned that the language of the rule is unnecessarily negative in tone and could have the effect of discouraging Federal employees from serving as representatives for organizations under the terms and conditions of the proposed rule. It is suggested that the regulation focuses on the remaining restrictions in 18 U.S.C. § 205 and gives the appearance that its primary purpose is to caution Federal employees against serving as representatives for organizations. When the 5 CFR part 251 regulations were first published, they provided for the new statutory exception and contained a reference in 5 CFR 251.101(f) to the 18 U.S.C. § 205 restrictions which remained. 60 FR 51371–51373, October 2, 1995. The intent was to caution Federal employees and make them aware that this authority exists and restricts them under certain circumstances from representing organizations before Federal agencies. In the Supplementary Information to the final rule OPM responded to a commenter who took issue with the inclusion of subpart (f):

> OPM is bound by the Department of Justice's interpretation of 18 U.S.C. § 205 and it would be improper for the regulation to authorize employees to represent non-labor organizations as part of their official duties. Indeed, it was out of concern that some officials might misconstrue these regulations as authorizing dealings with employee representatives of non-labor organizations without regard to 18 U.S.C. § 205 as interpreted by the Department of Justice that OPM included the cautionary note of section 251.101(f). Should a law be passed making the cautionary note unnecessary, OPM will modify its regulations. 61 FR 32914, June 26, 1996.

The Federal Employee Representation Improvement Act of 1996; Public Law

104–177, 110 Stat. 1563, August 6, 1996, modifying the 18 U.S.C. § 205 restrictions to permit employee representation of employee organizations under certain circumstances, prompted OPM to modify its final rule regarding 5 CFR part 251.

OPM, in its proposed rule, captures the essence of that relaxed restriction, while noting that subsection (d)(2) of amended Section 205 sets forth the circumstances in which a Federal employee may not act as agent or attorney representing an employee organization. It would be misleading to exclude the restrictions the law maintains, especially since violations of the Section 205 restrictions subject individual employees to the civil and/or criminal penalties set forth in 18 U.S.C. § 216.

The Federal department commented on the third restriction set forth in the amendment and reflected in the supplementary information portion of the proposed rule. The commenter suggested that the third situation which disallows Federal employees from requesting grants, contracts or Federal funds on behalf of an employee organization is not clear in the supplementary information portion of the proposed rule. It is suggested that the language does not make clear whether an employee could negotiate with a Federal agency on behalf of an organization over the terms of a contract. The commenter points out that a review of the law and the legislative history make it clear that the restriction is meant to apply only when the contract involves the expenditure of Federal funds. For example, an employee could represent a day-care center in the day-care center's rent, but the employee could not represent the center in the center's application for a grant from the U.S. Department of Education.

We agree with the commenter that the restriction on representation remains for any matter that ''involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.'' Federal Employee Representation Improvement Act of 1996, Public Law 104–177, Sec. 2(d)(2)(C). The relevant legislative history states: ''[d]ue to limited Federal resources, employee organizations should be on the same footing as other[s] looking for Federal funds.'' House Report No. 104–230, August 4, 1995. OPM believes, however, that the language in the supplementary information of the proposed regulations is clear and does not need modification.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will only affect Federal Government employees and non-labor organizations representing such employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 251

Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR part 251 as follows:

PART 251—AGENCY RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS

1. The authority citation for part 251 continues to read as follows:

Authority: 5 U.S.C. § 1104; 5 U.S.C. Chap 7; 5 U.S.C. § 7135; 5 U.S.C. § 7301; E.O. 11491.

2. In § 251.101, paragraph (f) is revised to read as follows:

§ 251.101 Introduction

* * * * *

(f) Federal employees, including management officials and supervisors, may communicate with any Federal agency, officer, or other Federal entity on the employee's own behalf. However, Federal employees should be aware that 18 U.S.C. 205, in pertinent part, restricts Federal employees from acting, other than in the proper discharge of their official duties, as agents or attorneys for any person or organization other than a labor organization, before any Federal agency or other Federal entity in connection with any matter in which the United States is a party or has a direct and substantial interest. An exception to the prohibition found in 18 U.S.C. 205 permits Federal employees to represent certain nonprofit organizations before the Government except in connection with specified matters. Agency officials and employees are therefore advised to consult with their designated agency ethics officials for guidance regarding any conflicts of interest that may arise.

[FR Doc. 98–974 Filed 1–14–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Chlortetracycline, Sulfathiazole, Penicillin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Hoffmann-La Roche, Inc. The ANADA provides for use of Type A medicated article containing chlortetracycline, sulfathiazole, and penicillin to make a Type C medicated swine feed.

EFFECTIVE DATE: January 15, 1998

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199, filed ANADA 200–167 that provides using Aureozol®, a Type A medicated article containing chlortetracycline calcium complex equivalent to 40 grams per pound (g/lb) chlortetracycline hydrochloride, sulfathiazole 8.8 percent (40 g/lb), and penicillin (from penicillin procaine) 20 g/lb, to make a Type C medicated swine feed. The Type C swine feed contains 100 g of chlortetracycline, 100 g of sulfathiazole, and 50 g of penicillin per ton of feed. It is a complete feed for swine raised in confinement (dry lot) or on limited pasture. It is used in swine pre-starter and starter feeds for reduction of incidence of cervical abscesses, treatment of bacterial enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery), maintenance of weight gain in the presence of atropic rhinitis, increased rate of weight gains and improved feed efficiency from 10 pounds of body weight to 6 weeks post-weaning. It is used for swine grower and finisher feed for reduction of incidence of cervical abscesses, treatment of bacterial

enteritis (salmonellosis or necrotic enteritis caused by *S. choleraesuis* and vibrionic dysentery), maintenance of weight gains in the presence of atropic rhinitis, increased rate of weight gain from 6 to 16 weeks post-weaning. Hoffmann-LaRoche's ANADA 200–167 is approved as a generic copy of Boehringer Ingelheim Animal Health, Inc.'s NADA 39–077 CSP 500 Fermazole Brand (chlortetracycline (as hydrochloride), sulfathiazole, penicillin (from penicillin procaine)). The ANADA is approved as of January 15, 1998, and the regulations are amended in 21 CFR 558.155(a)(2) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

This approval is for use of a Type A medicated article to make Type C medicated feeds. The Type A medicated article is a Category II drug which, as provided in 21 CFR 558.4, requires an approved form FDA 1900 for making a Type C medicated feed. The Animal Drug Availability Act of 1996 (Pub. L. 104–250) replaces the procedures for approval of certain medicated feeds with a general licensing system. A medicated feed previously requiring an approved medicated feed application now requires manufacturing in a licensed medicated feed mill. Therefore, use of this Type A medicated article to make Type C medicated feeds as provided in ANADA 200–167 is required to be manufactured at a licensed feed mill.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.155 [Amended]

2. Section 558.155 *Chlortetracycline, sulfathiazole, penicillin* is amended in paragraph (a)(2) by removing ''000010'' and adding in its place ''054273''.

Dated: January 2, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–703 Filed 1–14–98; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in February 1998.

EFFECTIVE DATE: February 1, 1998.

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

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during February 1998.

For annuity benefits, the interest assumptions will be 5.50 percent for the first 25 years following the valuation date and 5.25 percent thereafter. The annuity interest assumptions represent a decrease (from those in effect for January 1998) of 0.10 percent for the first 25 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. The lump sum interest assumptions are unchanged from those in effect for January 1998.

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

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during February 1998, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

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

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

2. In appendix B, a new entry is added to Table I, and Rate Set 52 is added to Table II, as set forth below.

The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	*
February 1998	.0550	1–25	.0525	>25	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y \leq n_1$—n_2 years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
52	02–1–98	03–1–98	4.25	4.00	4.00	4.00	7	8

Issued in Washington, D.C., on this 9th day of January 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–1063 Filed 1–14–98; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–97–003]

RIN 2115–AE47

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing several bridges that cross the New Jersey Intracoastal Waterway (NJICW). Those bridges are: the Route 35 Bridge across Manasquan River at NJICW mile 1.1, in Brielle, New Jersey; the S37 Bridge across Barnegat Bay at NJICW mile 14.1, in Seaside Heights, New Jersey; the US40–322 (Albany Avenue) Bridge across Inside Thorofare at NJICW mile 70.0, in Atlantic City, New Jersey; and the Route 52 (Ninth Street) Bridge across Beach Thorofare at NJICW mile 80.4, in Ocean City, New Jersey. Additionally, a new provision is added that restricts openings of the Route 30 Bridge across Beach Thorofare at NJICW mile 67.2. The changes are being made to ease vehicular traffic congestion caused by bridge openings in and around seaside resort areas and to reduce the need for these bridges to be continually staffed by a drawtender during off-peak periods when few openings occur.

DATES: This final rule is effective on February 17, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222.

FOR FURTHER INFORMATION CONTACT:

Ann Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 16, 1997, the Coast Guard published in the **Federal Register** (62 FR 38043) a Notice of Proposed Rulemaking (NPRM) entitled Drawbridge Operations Regulations; New Jersey Intracoastal Waterway. The NPRM proposed changes in the operating schedules of a number of bridges. The changes are designed to ease vehicular traffic congestion caused by bridge openings in and around seaside resort areas and to reduce the need for these bridges to be continually staffed by a drawtender during off-peak periods when few openings occur. The Coast Guard received 10 letters commenting on various provisions of the NPRM. No public hearing was requested and none was held.

Background and Purpose

General

The NJICW extends approximately 118 statute miles from Manasquan Inlet to Cape May Harbor. The NJICW is primarily used by pleasure craft, commercial, and sport fishing vessels. General regulations governing the operation of bridges are listed in sections 117.1 through 117.49 of 33 CFR. Specific drawbridge regulations,

which supplement the general regulations for certain NJICW bridges, are listed in 33 CFR 117.733.

The New Jersey Department of Transportation (NJDOT) requested changes in the regulations of several bridges crossing the NJICW in an effort to balance the needs of mariners and vehicle drivers transiting into and around seaside resort areas. Bridge openings at peak traffic hours during the tourist season often cause considerable congestion while accommodating relatively few vessels. In support of its request, NJDOT contends that there has been an overall decrease in vessel traffic and an increase in vehicular traffic in recent years. NJDOT believes that the regulations will help solve the vehicular traffic problem caused by the frequency of bridge openings. The regulations restricting openings will also allow bridge owners to reduce bridge tender hours for certain bridges during off-peak periods when requests for openings infrequently occur. A special 24-hour telephone number will be posted on all bridges in accordance with 33 CFR 117.55 to arrange for openings during off-peak periods and emergencies.

The Coast Guard received 10 comments on the NPRM. No comments addressed the proposed changes for the Route 30 Bridge or the US40–322 Bridge. The changes in operating regulations for these bridges in this final rule are unchanged from the NPRM. The comments concerning the proposed changes to the remaining bridges are discussed below.

Route 35 Bridge

During the summer of 1991, the Coast Guard implemented a temporary final rule, which changed the existing regulations governing the Route 35 Bridge for 60 days from August 1 through September 29, 1991. The temporary final rule, published in the **Federal Register** at 56 FR 40418, extended the hour and half hour opening schedule on weekends and holidays to between 9 a.m. and 10 p.m., and provided for only twice an hour openings during the evening rush hours from 4 p.m. to 7p.m. Monday through Thursday and from 12 p.m. to 7 p.m. on Fridays.

The NPRM proposed to permanently implement the temporary final rulemaking schedule, except that an additional hour was added to the times that the bridge opens on the hour and half hour. The schedule will begin at 8 a.m. instead of 9 a.m. The NPRM also proposed adding a four hour notice requirement for draw openings between 11 p.m. and 8 a.m. year-round.

The Coast Guard received four comments on the NPRM concerning the Route 35 Bridge. One comment requested that the dates of the schedule change be extended through October 31 rather than ending on September 30. The Coast Guard evaluated this proposal, but has decided not to change the dates in the final rule. Bridge opening log data from 1993 to 1995 revealed that the highest concentration of vessel and vehicular traffic occurred during the period from May 15 to September 30. For that reason, the NJDOT limited its request to change the schedule to September 30. The Coast Guard has no current justification for changing the dates beyond September 30; however, should vehicle traffic become a concern for the NJDOT beyond September 30, and the NJDOT can justify changing the dates, the Coast Guard would evaluate a future proposal to modify the regulation.

Another comment suggested changing the draw opening schedule on Saturdays, Sundays, and Federal holidays to coincide with the draw opening schedule on Mondays to Fridays in order to avoid confusion between weekday and weekend openings. The Coast Guard considered this comment and has changed the final rule to simplify the bridge opening schedule. The opening schedule for the weekend openings will be the same as for weekday openings, i.e., the draw will open 15 minutes before the hour and 15 minutes after the hour.

The 15 minute before and after the hour opening schedule on Mondays to Thursdays and on Fridays except Federal holidays from 12 p.m. to 7 p.m. was implemented to coincide with schedules of trains operated by the Brielle Railroad Bridge at mile 0.9 (Manasquan River), owned and operated by New Jersey Transit Rail Operations (NJTRO). The Route 35 Bridge is located approximately 200 feet upstream from the railroad bridge. Coordinating drawbridge openings of the Route 35 and the Brielle Railroad Bridges will minimize the number of times vessels would be required to hold or maneuver between the Route 35 and Brielle Railroad Bridges while waiting for one of the bridges to open.

During the summer boating season, the Brielle Railroad Bridge is normally maintained in the open position and closed approximately five minutes before the arrival of a passenger train. Trains typically cross the Brielle Railroad Bridge between 10 and 20 minutes past the hour. It is expected that a consistent opening schedule will not only enhance the safety of vessels, but also cause less confusion for motorists planning for bridge openings.

Several comments opposed the requirement that a four hour notice be given for bridge openings from 11 p.m. to 8 a.m. year-round. The comments stated that the schedule is unfair to the boating public and would be impractical and potentially hazardous to boaters. The Coast Guard considered the comments, but has decided not to change the final rule. As stated in the proposed rule, NJDOT records reveal a decrease in bridge openings from 11 p.m. to 8 a.m. in the yearly opening logs for 1993, 1994 and 1995. The bridge opened for vessels 243, 177, and 111 times during these years, respectively. In light of these statistics, which indicate minimal use of the bridge, the Coast Guard believes that a four hour notice is reasonable. This regulation merely requires mariners to plan ahead to schedule the bridge opening at times acceptable to them.

One comment proposed adding additional language to the regulation to clarify that the draw should only open if vessels are waiting. The rationale for the comment is that the bridge should not open unnecessarily, i.e., at times when no vessels are waiting. The Coast Guard considered the comment but has decided not to change the final rule. The regulation currently states that the draw ''need only open,'' on the hour and half hour. This language grants discretion to bridge tenders to open the draw at the prescribed times only when vessels are waiting to pass. The language does not require the bridge to open, as it would if the regulation stated that the draw ''shall open'' or ''will open'' at the prescribed times.

Another comment recommended that, instead of opening the draw in half hour periods, the draw should open on signal, but no more than twice in any hour. The comment suggested that in the final analysis, the draw would open the same number of times; i.e., twice in a one hour period. The Coast Guard has decided not to incorporate this suggestion into the final rule. As written, the final rule provides a consistent schedule, which allows vehicle traffic and mariners to plan their trips accordingly.

S37 Bridge

The NPRM proposed to change the regulation for the S37 Bridge to allow the bridge to open on signal except from Memorial Day to Labor Day, from 8 a.m. to 8 p.m., when the draw would only open on the hour and half hour. From 1 April to 30 November, from 11 p.m. to 8 a.m., four hours advance notice would be required.

The Coast Guard received several comments on the NPRM for the Route 37 Bridge. Many of the comments expressed opposition to the four hour notice requirement, stating that the absence of a full time bridge tender may cause a hazardous condition to vessels waiting, particularly during periods of flood tide. The Coast Guard considered the comments received, and after consulting with units that frequently patrol those waters, has decided not to change the final rule. Those units reported that, in their experience, routine conditions at the Route 37 Bridge pose no greater hazard that any other NJICW Bridge. At most, the schedule may create an inconvenience to mariners. The schedule will only require vessel operators to plan transits in order to minimize delays while waiting for the bridge opening. Vessels required to wait for openings can also make arrangements to wait in nearby marinas or anchor in designated bay anchorages. NJDOT records for 1993, 1994 and 1995 also showed a minimal demand for bridge openings during the period April 1 to November 30, from 11 p.m. to 8 a.m. During those periods, the bridge opened for vessels 151, 67, and 82 times, respectively. In light of these statistics, the Coast Guard believes that the four hour notice requirement to have a bridge tender on scene is reasonable.

Another comment suggested that traffic congestion could be further alleviated by requiring bridges to open only on the hour rather than on the hour and half hour. The Coast Guard considered this comment, but has not changed the final rule. The opening schedule is designed to balance the competing needs of vehicular and vessel traffic. The Coast Guard believes that two bridge openings per hour achieve the desired balance. However, the Coast Guard would consider future proposals to modify the bridge opening schedule if requested by NJDOT.

Route 30 Bridge

The NPRM proposed changes in the regulation for the Route 30 Bridge to require the bridge to open on signal except from 11 p.m. to 7 a.m. year-round, and from 3 p.m. to 11 p.m. from November 1 through March 31, when four hours advance notice would be required. The changes were proposed to relieve NJDOT of the burden of ensuring that bridge tenders are continuously present during periods when openings are infrequent.

The Coast Guard received no comments on these proposed changes and they appear in this final rule as proposed.

US40–322 Bridge

The NPRM proposed changes to the US40–322 Bridge schedule by amending section 117.733(f) and redesignating it as paragraph (g). Paragraph (g) now states that the draw need only open year-round from 11 p.m. to 7 a.m. and November 1 through March 31 from 3 p.m. to 11 p.m., if four hours advance notice is given. From June 1 through September 30, from 9 a.m. to 4 p.m., and from 6 p.m. to 9 p.m., the draw need only open on the hour and half hour. From June 1 through September 30, from 4 p.m. to 6 p.m., the draw need not be opened.

The Coast Guard received no comments on these proposed changes and they appear in this final rule as proposed.

Route 52 Bridge

The NPRM proposed changes in the regulations governing the Route 52 (Ninth Street) Bridge to require it to open on signal except that from Memorial Day to Labor Day from 8 a.m. to 8 p.m., the draw need only open on the hour and half-hour. The NJDOT contended that because vessel traffic through the bridge has decreased, limiting openings to the hour and half hour to include the weekdays would enhance vehicular traffic without significantly affecting vessel traffic.

The Coast Guard received two comments on the NPRM for the Route 52 Bridge. The comments suggested that expanding the weekend and holiday schedule throughout the week would be detrimental to the local boating industry. The comments expressed concern that the bridge schedule would require boaters to leave their docks in time to pass through the bridge and thus increase the chances of leaving behind late passengers for whom they might otherwise wait. The Coast Guard considered the comments, but has not changed the final rule. The final rule merely expands the schedule that already occurs on weekends and holidays from Memorial Day to Labor Day from 8 a.m. to 8 p.m., and does not prevent mariners from transiting through the bridge. The final rule merely requires mariners to schedule their trips accordingly, as they have already had to do on weekends and holidays, factoring in any buffers needed to accommodate late passengers.

General Requirements

The Coast Guard received no comments on the general proposals. Therefore, the general proposals are being implemented without change. After further review, however, the Coast Guard has decided to make a textual change to clarify the requirements and to provide consistent language for all NJICW bridges. Specifically, the change clarifies the requirement governing those bridges where advance notice is required for draw openings. The changes removes, throughout the regulation, the phrases stating that the draw shall open on signal if advance notice is given. As amended, the phrase will state that the draw need only open if at least the requisite number of hours notice is given.

The NPRM proposed amending Section 117.733 by deleting surplus language in paragraph (a)(1) to be consistent with the general operating regulations under 33 CFR 117.5. That provision already requires drawbridges to open promptly and fully for the passage of vessels when a request to open is given. The final rule removes the applicable language from paragraph (a)(1).

The final rule amends section 117.733 (b), (c), (d), and (h) by deleting the phrase stating that public vessels, vessels in distress, or vessels in tow may pass without delay. This requirement is currently published in 33 CFR 117.31 and is no longer required to be published in each specific bridge regulation.

The Coast Guard has revised 33 CFR 117.733 to include specific regulations governing the Stone Harbor Boulevard Bridge across Great Channel, at mile 102.0 in paragraph (j), and paragraph (i), which governs the Route 52 Bridge.

The Coast Guard removed the former regulation in 33 CFR 117.733 paragraph (j), governing the Cape May County Bridge Commission Bridge, at mile 104.0 between Stone Harbor and Nummy Island by codifying this paragraph at 33 CFR 117.720. The Cape May County Bridge Commission Bridge spans Great Channel, at mile 0.7, a tributary to the NJICW. It had been incorrectly placed in 33 CFR 117.733 among NJICW bridges.

The Coast Guard received no comments for the Cape May County Bridge Commission Bridge. The Coast Guard believes, however, that the wording in the proposed paragraph is unnecessarily confusing, and therefore has added language to paragraphs (a) and (b) to more clearly state that the draw need only open if at least four hours advance notice is given.

Finally, the final rule revises 33 CFR 117.733 by redesignating former paragraph (g), governing the Dorset Avenue Bridge across Inside Thorofare, mile 71.2. as paragraph (h).

Regulatory Evaluation

This final 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. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard reached this conclusion based on the fact that the changes and actions instituted by this rule will not prevent mariners from transiting the bridges. The final rule merely requires mariners to plan to be in position to take advantage of scheduled bridge openings and to timely contact bridges tenders controlling bridges that require advance notification.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.733 is revised to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

(a) The following requirement applies to all bridges listed in this section: The owners of these bridges shall provide, and keep in good legible condition, clearance gauges with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(b) The draw of the Route 35 Bridge, mile 1.1 across Manasquan River at Brielle, shall open on signal except as follows:

(1) From May 15 through September 30:

(i) On Saturdays, Sundays and Federal holidays, from 8 a.m. to 10 p.m., the draw need only open 15 minutes before the hour and 15 minutes after the hour.

(ii) On Mondays to Thursdays from 4 p.m. to 7 p.m., and on Fridays, except Federal holidays from 12 p.m. to 7 p.m., the draw need only open 15 minutes before the hour and 15 minutes after the hour.

(2) Year-round from 11 p.m. to 8 a.m., the draw need only open if at least four hours notice is given.

(c) The draw of the County Route 528 Bridge, mile 6.3 across Barnegat Bay at Mantoloking, shall open on signal; except that from Memorial Day through Labor Day on Saturdays, Sundays and Federal holidays from 9 a.m. to 6 p.m., the draw need only open on the hour, twenty minutes after the hour, and forty minutes after the hour.

(d) The draw of the S37 Bridge across Barnegat Bay, mile 14.1 at Seaside Heights, shall open on signal except as follows:

(1) From December 1 through March 31 from 11 p.m. to 8 a.m., the draw need not be opened.

(2) From April 1 through November 30 from 11 p.m. to 8 a.m., the draw need only open if at least four hours notice is given.

(3) From Memorial Day through Labor Day from 8 a.m. to 8 p.m., the draw need only open on the hour and half hour.

(e) The draw of the AMTRAK New Jersey Transit Rail Operations (NJTRO) automated railroad swing bridge across Beach Thorofare, mile 68.9 at Atlantic City shall operate as follows:

(1) Open on signal from 11 p.m. to 6 a.m. From 6 a.m. to 11 p.m., the draw shall open on signal from 20 minutes to 30 minutes after each hour and remain open for all waiting vessels.

(2) Opening of the draw span may be delayed for ten minutes except as provided in § 117.31(b). However, if a train is moving toward the bridge and has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(3) When the bridge is not tended locally and/or is operated from a remote location, sufficient closed circuit TV cameras shall be operated and maintained at the bridge site to enable the remotely located bridge/train controller to have full view of both river traffic and the bridge.

(4) Radiotelephone Channel 13 (156.65 MHz) VHF–FM, shall be maintained and utilized to facilitate communication in both remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels within a mile that are not equipped with radiotelephones.

(5) Whenever the remote control system equipment is partially disabled or fails for any reason, the bridge shall be physically tended and operated by local control. Personnel shall be dispatched to arrive at the bridge as soon as possible, but not more that one hour after malfunction or disability of the remote system. Mechanical bypass and override capability of the remote operation system shall be provided and maintained.

(6) When the draw is opening and closing, or is closed, yellow flashing lights located on the ends of the center piers shall be displayed continuously

until the bridge is returned to the fully open position.

(f) The draw of the Route 30 Bridge across Beach Thorofare, mile 67.2 at Atlantic City, shall open on signal except that, year-round from 11 p.m. to 7 a.m. and, from November 1 through March 31 from 3 p.m. to 11 p.m., the draw need only open if an least four hours notice is given.

(g) The draw of the US40–322 (Albany Avenue) Bridge, mile 70.0 across Inside Thorofare, at Atlantic City, shall open on signal except that:

(1) Year-round, from 11 p.m. to 7 a.m.; and from November 1 through March 31 from 3 p.m. to 11 p.m., the draw need only open if at least four hours notice is given;

(2) From June 1 through September 30:

(i) From 9 a.m. to 4 p.m. and from 6 p.m. to 9 p.m. the draw need only open on the hour and half hour; and

(ii) From 4 p.m. to 6 p.m. the draw need not open.

(h) The draw of the Dorset Avenue Bridge across Inside Thorofare, mile 72.1 at Ventnor City, shall open on signal except that from June 1 through September 30, from 9:15 a.m. to 9:15 p.m., the draw need only open at 15 and 45 minutes after the hour.

(i) The draw of the Route 52 (Ninth Street) Bridge, mile 80.4 across Beach Thorofare, at Ocean City, shall open on signal except that from Memorial Day through Labor Day from 8 a.m. to 8 p.m., the draw need only open on the hour and half hour.

(j) The draw of the Stone Harbor Boulevard Bridge, mile 102.0 across Great Channel, at Stone Harbor, shall open on signal except that:

(1) From October 1 through March 31 from 10 p.m. to 6 a.m. the draw need only open if at least eight hours notice is given.

(2) From Memorial Day through Labor Day from 6 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays, the draw need open only on the hour, 20 minutes after the hour, and 20 minutes before the hour.

3. Section 117.720 is added to read as follows:

§ 117.720 Great Channel.

The draw of the Cape May County Bridge Commission bridge, mile 0.7, between Stone Harbor and Nummy Island, shall open on signal except that:

(a) From May 15 through October 15 from 10 p.m. to 6 a.m., the draw need only open if at least four hours advance notice is given.

(b) From October 16 through May 14, the draw need only open if at least 24 hours advance notice is given.

Dated: December 23, 1997.

Roger Rufe Jr.,

Vice Admiral, U.S. Coast Guard Commander Fifth Coast Guard District.

[FR Doc. 98–1070 Filed 1–14–98; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1301, 1304, 1305 and 1306

Head Start Program

AGENCY: Administration on Children, Youth and Families Administration for Children and Families, HHS.

ACTION: Technical and correcting amendments.

SUMMARY: This document contains technical and correcting amendments to the Head Start Program final rule published on November 5, 1996 (61 FR 57186). The final rule implements the statutory provisions for establishing Program Performance Standards for Early Head Start grantees and Head Start Grantee and delegate agencies providing services to eligible children from birth to five years and their families as well as pregnant women and for taking corrective actions when Early Head Start or Head Start agencies fail to meet such standards. These technical and correcting amendments add the Office of Management and Budget (OMB) Control Number to sections containing information collection requirements for which OMB approval has been obtained and make other necessary corrections.

DATES: Effective on January 15, 1998.

FOR FURTHER INFORMATION CONTACT: E. Dollie Wolverton, Head Start Bureau, 202–205–8418 (not a toll free call);

SUPPLEMENTARY INFORMATION:

I. Background

The final rule on Head Start Performance Standards was published on November 5, 1996 (61 FR 57186), in the **Federal Register**. The purpose of the final rule, the first wide ranging revision of the performance standards in over 20 years, is to implement the 1994 amendments to the Head Start Act which require an update to the Head Start Program Performance Standards.

II. Need for Technical and Correcting Amendments to 45 CFR Parts 1301, 1304, 1305, and 1306

This document adds the OMB Control number to the sections containing information collection requirements for which OMB approval has been obtained; corrects errors and omissions in the text of the final regulations; makes changes in certain provisions to make them easier to read; adds and corrects cross references to other related sections of the Head Start regulations, and makes one change required by the Head Start Act.

The Office of Management and Budget (OMB) approved the information and collection requirements in 45 CFR sections 1301.31(b) on personnel policies; 1304.20 (a), (c), and (d) on child health and developmental services; 1304.22(c) on child health and safety; 1304.23(a) on child nutrition; 1304.40(a) on family partnerships; 1304.41(a) on community partnerships; 1304.50 (f), (g), and (h) on program governance; 1304.51 (a) and (i) on management systems and procedures; 1304.52(j) on human resources management; and 1304.60(b) and (c) on deficiencies and quality improvement plans. This Notice adds the newly assigned OMB Control number 0970–0148 for these sections as required by OMB. The expiration date for the approval is December 31, 1999. In the case of 45 CFR 1305.3 (b) and (d), a technical edit is made in the parenthetical statement at the end of the section on the OMB Control Number. Changes have been made to citations in several places in Appendix A.

Changes are made in the text in 45 CFR § 1304.20(b), § 1304.20(f)(1), § 1304.41(b), § 1304.50(b)(3), 1304.52(j)(1) and § 1306.30(c) to make the provisions easier to understand without changing their requirements. There are also corrections to typographical errors in Appendix A, Paragraph (b), II General Procedures, and Paragraphs (c) and (e), III Human Resources Management. The references to ''delegate agencies'' are being deleted from 45 CFR 1305.3 because these references were included in the final regulations as the result of typographical errors. Paragraph (ix) is being deleted from 45 CFR 1304.50(d)(1). The provision, which requires that members of the Policy Councils and Policy Committees approve the Head Start Program's annual audit, was included in the final regulation through an error. The deletion of this provision necessitates changes to the numbering of 45 CFR 1304.50(d)(1) (x)–(xiii) and references to those provisions in Appendix A.

This notice also includes changes to several of the cross-references in the regulations which have been provided to assist grantees and others in using the document and which do not affect the

requirements of the regulations. The phrase ''Head Start parents'' was omitted from 45 CFR 1304.41(b) and is being inserted to comply with Section 641A(a)(3)(C)(ii) of the Head Start Act (42 U.S.C. 9836A). The parenthetical phrase (''this regulation is binding on Policy Councils exclusively'') is being removed from § 1304.51(d)(1)(iii) because it may be misunderstood. The statement in the parenthetical applies to the cross reference cited in the provision as a whole.

Grantees that already have taken steps to comply with 45 CFR 1304.41(b), will be given an opportunity to take any necessary corrective action before being sanctioned as provided by the Head Start Act.

Waiver of Notice and Comment Procedures

The Administrative Procedure Act (5 U.S.C. 553(b)(B)) requires that a notice of proposed rulemaking be published unless the Department finds, for good cause, that such notice and opportunity for public comment is impracticable, unnecessary, or contrary to the public interest. In this instance, the rule in question effects technical changes, corrections to and deletion of text not properly included in the regulations and a change necessary to comply with provisions of the Head Start Act. Accordingly, the Department has determined that it would be unnecessary to use notice and comment procedures in issuing these amendments.

Impact Analysis

No Impact Analysis is needed for the technical amendments. The impact of the necessary corrections falls within the analysis of the Performance Standards published in the **Federal Register** on November 5, 1996 (61 FR 57186 and 57209).

List of Subjects

45 CFR Part 1301

Administrative practice and procedure, Education of disadvantaged, Grant programs/social programs, Selection of grantees.

45 CFR Part 1304

Dental health, Education of disadvantaged, Grant programs/social programs, Health care, Mental health programs, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1305

Education of disadvantaged, Grant programs/social programs, Individuals with disabilities.

45 CFR Part 1306

Education of disadvantaged, Grant programs/social programs, Individuals with disabilities.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: January 7, 1998.

Neil J. Stillman,

Deputy Assistant Secretary for Information and Resource Management.

Accordingly, 45 CFR Parts 1301, 1304, 1305, and 1306 of the Head Start final rule are corrected by making the following technical and correcting amendments:

PART 1301—HEAD START GRANTS ADMINISTRATION

1. The authority citation for Part 1301 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. In § 1301.31, revise the parenthetical sentence at the end of the section to read as follows:

§ 1301.31 Personnel policies.

* * * * *

(The information collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraph (b).)

PART 1304—PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS BY GRANTEE AND DELEGATE AGENCIES

3. The authority citation for Part 1304 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1304.20 [Corrected]

4. In § 1304.20:

A. In the heading of paragraph (b):

(1) Remove the word ''screening'' and add in its place ''concerns''; and

(2) Add the words ''screening for'' before the word ''developmental'';

B. In the first sentence of paragraph (b)(1):

(1) Add the words ''screening procedures to identify concerns regarding a child's'' after the word ''appropriate'';

(2) Add in parentheses ''(visual and auditory),'' after the word ''sensory'';

(3) Remove the word ''and'' before the word ''behavioral'' and add a comma after ''behavioral'', and remove the words ''screenings of'' after the word ''behavioral'';

C. In the second sentence of paragraph (b)(1) remove the word ''screenings'' and add the words ''screening procedures''.

D. In paragraph (c)(4), after the words ''Individualized Education Program'' add the parenthetical letters ''(IEP)'';

E. In paragraph (f)(1) add the words ''screening for'' before the word ''developmental'' and remove the word ''screening'' after the word ''behavioral'' and add the word ''concerns'' in its place; and

F. Add the Office of Management and Budget Control Number in a parenthetical sentence at the end to read as follows:

§ 1304.20 Child health and developmental services.

* * * * *

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraphs (a), (c) and (d).)

§ 1304.21 [Corrected]

5. In § 1304.21(b)(1), within the parenthetical phrase at the end which reads ''(see 45 CFR 1304.3(a)(5))'', add the words ''for a definition of curriculum'' after the number ''(5)''. In paragraph (b)(1)(i) of this section in the phrase at the end which reads ''See 45 CFR 1304.52(g)(4)'', remove the number ''(4)'' and replace it with ''(2)''.

6. In § 1304.22, add the OMB Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.22 Child health and safety.

* * * * *

(The information collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraph (c).)

7. In § 1304.23, add the OMB Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.23 Child nutrition.

* * * * *

(The information collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraph (a).)

§ 1304.40 [Corrected]

8. In § 1304.40(a) (2) and (3) remove the capital letters from ''Family Partnership Agreements'' and ''Agreement'' and in their place add the lower case. At the end of paragraph (i)(4) of this section, add in parentheses ''(See 45 CFR 1306.33 regarding the home-based program option.)''. Add the Office of Management and Budget Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.40 Family partnerships.

* * * * *

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraph (a).

§ 1304.41 [Corrected]

9. In § 1304.41(b), after the word ''includes'' add the words ''Head Start parents,''. In this same paragraph add a comma after the word ''professionals'' and add the word ''other'' before the word ''volunteers''. Add the Office of Management and Budget Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.41 Community partnerships.

* * * * *

(The information collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraph (a).)

§ 1304.50 [Corrected]

10. In § 1304.50(b)(3), after the words ''low-income children and families'' remove the period and add a comma in its place, remove ''Community representatives may'', and remove ''include'' and add ''including, for example,'' in its place. In paragraph (d)(1)(iii) at the end, remove the phrase ''(this regulation is binding on Policy Councils exclusively)''. Remove paragraph (d)(1)(ix) of this section and redesignate paragraphs (d)(1)(x) through (d)(1)(xii) as paragraphs (d)(1)(ix) through (d)(1)(xi), respectively. In paragraph (e)(3), remove the words ''Governing Board'' and in its place add ''governing body''. Add the Office of Management and Budget Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.50 Program governance.

* * * * *

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraphs (f), (g), and (h).)

Appendix A—[Corrected]

11. In Appendix A, make corrections as follows:

A. Under I. Planning, the ''Function'' column, remove the sentence at the end of paragraph (a) which reads ''(this regulation is binding on Policy Councils exclusively.)''.

B. In paragraph (b) under II. General Procedures, in the Grantee Agency/Policy Council column, remove the ''C'' and add in its place ''—'' to show the space is now blank and on the same line in the Delegate Agency/Policy Committee column remove the letter ''C'' and add in its place ''—'' to show the space is now blank.

C. Under II. General Procedures, in paragraph (g), at the beginning, remove ''1304.50(d)(1)(ix)''.

D. Under III, Human Resources Management:

(1) In paragraph (a) remove ''1304.50(d)(1)(x)'' and add in its place ''1304.50(d)(1)(ix)''.

(2) In paragraph (b) remove ''1304.50(d)(1)(xi)'' and add in its place ''1304.50(d)(1)(x)''.

(3) In paragraph (c) remove ''1304.50(d)(1)(xii)'' and add in its place ''1304.50(d)(1)(xi)'', and in the column on Grantee Agency/Governing body remove ''C'' and add in its place ''A''.

(4) In paragraph (d) remove ''1304.50(d)(1)(xi)'' and add in its place ''1304.50(d)(1)(x).''

(5) In paragraph (e), remove ''1304.50(d)(1)(xii)'' and add in its place ''1304.50(d)(1)(xi)'', and under the Delegate Agency/Governing body column, remove the ''C'' and add in its place ''A''.

§ 1304.51 [Corrected]

12. At the end of § 1304.51(a)(1)(iii), add the sentence ''See the requirements of 45 CFR parts 1305, 1306, and 1308.''. Add the Office of Management and Budget Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.51 Management systems and procedures.

* * * * *

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraphs (a) and (i).)

§ 1304.52 [Corrected]

13. In § 1304.52(j)(1) add a set of parentheses around the words ''that includes screening for tuberculosis''. Add the Office of Management and Budget Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.52 Human resources management.

* * * * *

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraph (j).)

14. In § 1304.60 add the Office of Management and Budget Control Number in a parenthetical sentence at the end of the section to read as follows:

§ 1304.60 Deficiencies and quality improvement plans.

* * * * *

(The information and collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0148 for paragraphs (b) and (c).)

PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START

15. The authority citation for Part 1305 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1305.3 [Corrected]

16. In § 1305.3(b) remove the words ''and delegate agency'' and ''or delegate's''. In paragraph (d) of this section remove ''or delegate agency''. Revise the Office of Management and Budget Control Number parenthetical sentence at the end of the section to read as follows:

§ 1305.3. Determining community strengths and needs.

* * * * *

(The information collection requirements are approved by the Office of Management and Budget (OMB) under OMB Control Number 0970–0124 for paragraphs (b) and (d).)

PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS

17. The authority citation for Part 1306 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1306.30 [Corrected]

18. In § 1306.30(c) in the second sentence, remove the comma before the words ''at a minimum'', remove the words ''at a minimum,'', remove the word ''the'' before the word ''safety'', add the words ''health and'' before the word ''safety'', and remove the words ''of facilities'' and add the word ''as'' in its place.

[FR Doc. 98–961 Filed 1–14–98; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21, 24, 26, 27, 90 and 95

[WT Docket No. 97–82, ET Docket No. 94–32; FCC 97–413]

Competitive Bidding Proceeding

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Third Report and Order*, the Commission adopts uniform competitive bidding rules for all future auctions. The Commission believes that these rule changes will simplify and streamline its regulations in order to increase the overall efficiency of the competitive bidding process. These rule changes are necessary to further the Commission's goals of simplifying and streamlining its regulations, and to develop uniform auction rules and procedures for all future auctions. The intended effect of this action is to adopt uniform final rules and procedures applicable to the Commission's spectrum auction program.

EFFECTIVE DATE: March 16, 1998.

FOR FURTHER INFORMATION CONTACT: Josh Roland or Mark Bollinger, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the *Third Report and Order* in WT Docket No. 97–82, ET Docket No. 94–32, adopted on December 18, 1997 and released on December 31, 1997. The complete *Third Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800. The complete *Third Report and Order* also is available on the Commission's Internet home page (http://www.fcc.gov).

SUMMARY OF ACTION:

I. Background

1. On December 18, 1997, the Federal Communications Commission (Commission) adopted a *Third Report and Order* making substantive amendments and modifications to its general competitive bidding rules for all auctionable services. These changes to the Commission's general competitive bidding rules are intended to streamline the Commission's regulations and eliminate unnecessary rules wherever possible, increase the efficiency of the competitive bidding process, and provide more specific guidance to auction participants. The changes also advance the Commission's auction program by reducing the burden on the Commission and the public of conducting service-by-service auction rule makings. In the Competitive Bidding Second Report and Order in PP Docket No. 93–253, the Commission stated that we would ''issue further Reports and Orders * * * to adopt auction rules for each auctionable service or class of service,'' and we identified criteria that would govern our choice of service-specific auction rules and procedures, which may be found in subpart Q of part 1 of our rules. *Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* PP Docket No. 93–253, *Second Report and Order*, 59 FR 22980 (May 4, 1994) (''*Competitive Bidding Second Report and Order*''), *on recon., Second Memorandum Opinion and Order,* 59 FR 44272 (August 26, 1994) (''*Competitive Bidding Second Memorandum Opinion and Order*''). These rule changes result from the Commission's proposals in Amendment of Part 1 of the Commission's Rules—Competitive Bidding Proceeding, *Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making,* WT Docket No. 97–82, 62 FR 13570 (March 21, 1997) (''*Notice*'').

2. The Commission also released a *Second Further Notice of Proposed Rule Making* in this Docket, in which it sought comment on additional changes to its general competitive bidding rules. The *Second Further Notice of Proposed Rule Making* was published in the **Federal Register** on January 7, 1998. *See* Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660–4685 MHz, *Second Further Notice of Proposed Rule Making,* WT Docket No. 97–82, ET Docket No. 94–32 (rel. January 7, 1998) (''*Second Further Notice of Proposed Rule Making*'').

II. Applicability of General Competitive Bidding Rules

3. With some exceptions, the Commission adopts its proposal in the *Notice* to apply the general competitive bidding rules adopted herein to all future auctions, regardless of whether service-specific auction rules have previously been adopted. The Part 1 rules will apply to all auctionable services, unless the Commission determines that with regard to particular matters the adoption of service-specific rules is warranted. As the Commission indicated in the *Notice*, the Commission has gained significant experience in the course of the 15 auctions conducted to date. In particular, the Commission has found that much of the auction process can be standardized and that adopting service-specific rules for many aspects of the competitive bidding process is both unnecessary and confusing. The Commission also finds that conducting separate rule makings for each individual service often slows the delivery of service to the public because it results in regulatory delays before the licensing process begins. The majority of commenters addressing this issue agree, emphasizing that the adoption of uniform auction procedures will (1) shorten the rule making process for future auctions by narrowing the issues on which the Commission must seek comment in service-specific rule makings; (2) decrease uncertainty for auction participants; (3) benefit small businesses because uniform rules are more easily understood and complied with, particularly by those with limited resources and those that participate in different auctions; and (4) enable the Commission to develop a consistent body of law and precedent governing the auction process.

4. The Balanced Budget Act of 1997, Pub. L. 105–33, 111 Stat. 251 (1997), to be codified in relevant part at 47 U.S.C. 309(j)(2)(E) and 309(j)(4)(F) (''Balanced Budget Act''), expands the Commission's auction authority. Section 309(j)(2) formerly stated that mutually exclusive applications for initial licenses or construction permits were auctionable if the principal use of the spectrum was for subscription-based services and competitive bidding would promote the expressed objectives. As amended, Section 309(j)(2) provides that, in cases of mutually exclusive applications, all spectrum is auctionable except licenses or construction permits for (1) public safety services; (2) digital television service given to existing broadcasters to replace their analog license; and (3) non-commercial educational or public broadcast stations. In addition, the Balanced Budget Act authorizes the Commission to assign pending broadcast license applications filed before July 1, 1997 by means of competitive bidding pursuant to Section 309(j). Because these legislative changes significantly increase the number of services that will be licensed by competitive bidding, we believe that adopting uniform competitive bidding

rules for all auctionable services is even more necessary.

5. With limited exceptions, the rules the Commission adopts today will not apply to the initial auction of licenses in the paging, 220 MHz, and Local Multipoint Distribution (''LMDS'') services. The Commission previously adopted service-specific auction rules for the auction of these services, and believes that this decision is in the best interest of prospective applicants for these auctions, who may have relied upon the service-specific rules previously adopted by the Commission in formulating business plans and making early efforts to obtain financing. As discussed below, however, the Commission retains the discretion to use the revised general competitive bidding procedures adopted in this proceeding for any reauction of licenses in these services. The Commission also notes that while service-specific rules exist for the auction of the 220 MHz service, many of these rules are similar, or refer to the Part 1 rules. To apply the existing rules for the most part is also strongly supported by those commenters addressing the issue. For example, AMTA states that the 220 MHz industry has encountered extraordinary delays in achieving regulatory certainty, and that amending or altering the auction rules for this service would create further uncertainty. Consistent with the Commission's discussion below, the Commission's decision regarding the establishment of minimum opening bids will apply to the initial auction of licenses in the paging and 220 MHz services. In addition, the Commission notes that several petitions for reconsideration are pending in these proceedings. In resolving these petitions, the Commission will address installment payment financing for licenses in these services in a manner consistent with our decision herein to temporarily suspend the use of installment payments.

6. Many of the commenters who support the Commission's proposal to adopt general competitive bidding procedures for all auctionable services argue that the Commission should, in its discretion, adopt or retain service-specific rules in particular instances. Airadigm argues that the Commission should use existing service-specific rules where it would be unfair to allow one group of licensees in the same service to benefit or be disadvantaged by operating under a different set of rules than its competitors in the same service (*e.g.*, in the case of a reauction of licenses following bidder default). Similarly, NextWave contends that the adoption of service-specific rules may be appropriate in some circumstances. In a related argument, some commenters believe that, in certain instances, the rules adopted in this proceeding should not be applied retroactively to supersede previously adopted service-specific rules. For example, AirTouch and WWC suggest that when service-specific rules have been adopted after industry participation and based upon particular characteristics of a specific industry or spectrum to be auctioned, those service-specific rules should govern.

7. With regard to the auction of licenses to provide paging services, AirTouch opposes the Commission's proposal to apply general auction rules to all future auctions, regardless of whether service specific rules have been adopted. AirTouch argues in particular that the Commission should not adopt a general stopping rule for the paging auction which would be contrary to the comments received in that proceeding and the stopping rule that the Commission ultimately adopted. As discussed above, the Commission will use previously-adopted, service-specific rules for the paging auction.

8. The rule changes the Commission adopts today streamline and simplify its general competitive bidding procedures. The majority of the rules the Commission adopts today address aspects of the Commission's spectrum auction program that affect future auction applicants only. These rules include application procedures (*e.g.*, electronic filing, short-form application amendments, ownership disclosure requirements), upfront and down payment issues, issues relating to competitive bidding design, procedure and timing (*e.g.*, alternate bidding methodologies, minimum opening bids, and bid withdrawal), and rules prohibiting collusion during the auction. However, some of the provisions the Commission adopts today address aspects of its rules that govern current licensees as well. Specifically, these minor rule changes affect certain license-related payment terms (*e.g.*, installment payments, grace periods, and unjust enrichment).

9. Two commenters, AICC and AAA, argue that the general competitive bidding procedures adopted in this proceeding would be wholly inappropriate for auctions of shared frequencies governed by Part 90 of the Commission's rules. In support of this position, these commenters argue that: (1) None of the Commission's auctions have involved shared frequencies; (2) any auction of Part 90 shared spectrum would involve participants ranging in size from very large corporations to very small businesses and individual users, which would require a significant adjustment in the Commission's traditional auction rules; (3) industry participation would be crucial in crafting appropriate auction and service rules; and (4) in light of the public safety services provided using Part 90 spectrum, auctioning such spectrum is not in the public interest. AICC and AAA further suggest that those commenters who favor the adoption of general competitive bidding procedures for all spectrum might not have considered the possibility of auctions for shared channels, since the Commission is not currently authorized to award licenses for such spectrum by means of competitive bidding. The Commission agrees that shared spectrum is, by definition, not auctionable under Section 309(j) due to the lack of mutual exclusivity.

10. Similarly, Hughes suggests that in the event the Commission decides to auction satellite services, it should conduct a service-specific rule making specially tailored to the capital intensive nature of the satellite industry, instead of employing the general competitive bidding procedures adopted in this proceeding. Although the Commission does not decide that issue now, as the Commission suggested in the *Notice*, the Commission will continue to adopt service-specific auction procedures where it finds that its general competitive bidding procedures are inappropriate.

III. Rules Governing Designated Entities

11. Section 309(j)(4)(D) of the Communications Act of 1934 provides that in prescribing rules for a competitive bidding system, the Commission shall ''ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services.'' 47 U.S.C. 309(j)(4)(D). The statute further directs the Commission to consider the use of tax certificates, bidding preferences, alternative payment schedules and methods of calculations and other procedures as means of accomplishing this statutory objective. *See* 47 U.S.C. 309(j)(3)(B) and (j)(4)(D).

12. The Commission adopts the rules in this *Third Report and Order* in order to facilitate broad-based participation in auctions. The Commission believes that standardizing the rules regarding definitions of eligible entities, unjust enrichment and bidding credits will assist small, minority and women-owned businesses because the rules'

predictability will facilitate the business planning and capital fundraising process. While the Commission suspends the use of installment payments, the Commission seeks comment in the *Second Further Notice of Proposed Rule Making* in this docket on whether installment payments should be adopted in the future.

13. The Commission also notes that pursuant to Section 309(j)'s obligations to ensure opportunities for participation by small enterprises, rural telephone companies, and minority- and women-owned businesses, and Section 257 of the Telecommunications Act, requiring that the Commission identify and eliminate market entry barriers for small and entrepreneurial telecommunications businesses, the Commission has commenced a series of studies, and has other studies in the planning process, to examine barriers encountered by minorities and women in the auctions process and the secondary market for licenses. When those studies are completed, the Commission will examine whether additional measures are warranted to promote the objectives of giving small businesses, rural telephone companies, and women- and minority-owned businesses the chance to provide spectrum-based services, as required in Section 309(j).

14. *Small Business Size Standards.* The Commission adopts its proposal to continue to define small businesses, as it has in the past, based on the characteristics and capital requirements of the specific service. The Commission believes that this approach has given it flexibility that will continue to benefit small businesses in future auctions. The Commission also notes that this approach is consistent with the Small Business Administration's practice of approving small business size standards on a service-by-service basis. Commenters addressing this issue support this conclusion. For example, AMTA and NextWave both believe that the determination of appropriate small business size standards should be made on a case-by-case basis.

15. No commenters addressed the Commission's proposal in the *Notice* to create size standards that require small businesses to have gross revenues ''not to exceed,'' as opposed to ''less than'' a certain amount. Nevertheless, the Commission believes that adoption of this proposal is important to further its objective of establishing uniform definitions relating to small business standards for future auctions. From this point forward, the Commission's service-specific small business definitions will be expressed in terms of average gross revenues over the preceding three years ''not to exceed'' particular amounts. The Commission also continues to believe that average gross revenues provide an accurate, equitable, and easily ascertainable measure of business size. As the Commission has discussed in the past, a single gross revenues size standard is an established method for determining size eligibility for various kinds of federal programs that aid smaller businesses. NextWave, in its comments, agrees, stating that gross revenues are a generally reliable measure of whether a company is indeed small. In addition, while the Commission has used a total assets test in determining eligibility for entrepreneur blocks, *see, e.g.,* 47 CFR 709(a), the Commission has not used such a test for determining small business eligibility. The Commission also notes that the Small Business Act's statutory definition of small business does not use a total assets test. *See* 15 U.S.C. 632(c). Thus, the Commission declines to adopt any other measure of business size, such as a total assets test, at this time.

16. *Definition of Gross Revenues.* All commenters addressing the issue support the Commission's proposal in the *Notice* to adopt a uniform definition of gross revenues for all auctionable services. The Commission believes that a uniform definition of gross revenues, as the essential element of our small business definitions, furthers the Commission's goal of establishing uniform definitions and is administratively efficient. Thus, the Commission adopts a uniform definition of gross revenues in the Part 1 rules.

17. Various commenters addressed specific aspects of the Commission's proposed definition of gross revenues. CII supports the Commission's proposal that applicants be permitted to use *either* fiscal year or calendar year figures for calculation purposes. No commenters opposed this proposal. The Commission is persuaded that permitting use of either of these figures will assist applicants in providing the most current information available on their applications. The Commission concludes that its general gross revenue definition should permit applicants to support their gross revenue calculations using either fiscal or calendar years.

18. Several commenters responded to the Commission's tentative conclusion in the *Notice* to accept the use of unaudited financial statements where audited financial statements are unavailable, if prepared in accordance with Generally Accepted Accounting Principles, for gross revenue calculations by auction applicants seeking to qualify for small business status. A majority of these commenters supported the Commission's tentative conclusion that where audited financial statements are not available, they should not be required. In particular, these commenters argue that any strict requirement that financial statements be audited is unduly burdensome for most small business applicants. In addition, AMTA contends that the certification requirement already present on the short-form (FCC Form 175) application is sufficient to ensure that small business applicants submit only accurate information, both financial and otherwise, as part of their applications. Only two commenters, ISTA and PageNet advocate that applicants use audited financial statements in order to qualify for small business status. After review of the comments on this issue, the Commission concludes that such a requirement would be onerous to small business. The Commission also agrees with AMTA's observation that the certification requirement on the FCC Form 175 acts to ensure that applicants submit accurate information. Furthermore, as discussed below, the Commission also will retain the authority to audit applicants individually if there is any question concerning small business status. The Commission therefore declines to require all applicants to use audited financial statements to support their gross revenue calculations. Audited financial statements, however, are necessary if they exist. The Commission also notes that, consistent with the Small Business Act, 15 U.S.C. 632(c)(ii)(II), where an entity has been in existence for less than three years, the entity's gross revenues should be averaged for the relevant number of years the entity, or its predecessor in interest (affiliate), has been in existence.

19. Accordingly, as proposed in the *Notice*, and consistent with the Commission's broadband PCS rules, the Commission will define gross revenues for all auctionable services as:

all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.,* cost of goods sold), as evidenced by audited financial statements for the three (3) most recent calendar years or, if audited financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form (FCC Form 175). If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as

accurate. When an applicant does not have audited financial statements, its gross revenues must be certified by its chief financial officer or its equivalent and must be prepared in accordance with Generally Accepted Accounting Principles.

20. *Definition of Affiliate*. The Commission adopts its proposal to adopt a uniform definition of the term ''affiliate'' for all future auctions. As the Commission discussed in the *Notice*, the term *affiliate* is defined by the Commission's Part 1 rules as an individual or entity that directly or indirectly controls or has the power to control the applicant; is directly or indirectly controlled by the applicant; is directly or indirectly controlled by a third person(s) that also controls or has the power to control the applicant; or has an ''identity of interest'' with the applicant. The Commission has found that this definition, which also contains detailed discussion and examples of relevant terms such as ''control'' and ''identity of interest,'' has proven workable and is broad enough to address a wide variety of business structures. In particular, this definition has helped to ensure that businesses seeking small business status are truly small. The Commission also believes that this definition, by focusing on ''indicia of control,'' is consistent with our proposals regarding attribution of gross revenues of investors and affiliates discussed in the *Second Further Notice of Proposed Rule Making* in this docket.

21. CIRI requests that the Commission include in its general definition of the term ''affiliate'' an exemption for Indian tribes and Alaska Regional or Village Corporations, as the Commission did for broadband PCS, and more recently, for LMDS. The Commission agrees with CIRI that entities owned and controlled by Indian tribes and Alaska Regional or Village Corporations should be eligible to bid in future auctions as small businesses, notwithstanding their affiliation with other entities owned by tribes or Alaska Native Corporations whose gross revenues cause the combined average gross revenues of the entity and its affiliates to exceed the general limits for eligibility for bidding as such a business. As the Commission stated in support of a similar exemption from the affiliation rules in LMDS, this exception will ensure that these entities will have a meaningful opportunity to participate in spectrum-based services from which they would otherwise be precluded. Furthermore, the Commission does not believe that this exemption for the specified entities will entitle them to an unfair advantage over entities that are otherwise eligible for small business status.

22. The Commission also takes this opportunity to clarify its Part 1 definition of affiliate. The Commission's Part 1 rules provide that parties to a joint venture are considered to be affiliated with each other for purposes of determining the gross revenues of an applicant seeking to qualify for status as a small business. *See* 47 CFR 1.2110(b)(4)(x). In the past, however, the term ''consortium'' has been defined on a service-by-service basis as ''a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition of a very small business, small business or entrepreneur.'' *See, e.g.,* 47 CFR 101.1112(f) (defining the term ''consortium'' for LMDS). This results in each member of a consortium being defined as an affiliate of each other member. The resulting attribution of gross revenues of each member of the consortium is inconsistent with our intention to permit small or very small businesses to form consortia as a means of increasing the capital available to participate in the Commission's auctions, while still being eligible for status as a small business.

23. The Commission therefore amends § 1.2110(b)(4)(x) to provide that a ''consortium'' as defined on a service-by-service basis for purposes of determining status as a designated entity will not be treated as a ''joint venture'' under our attribution standards. As a result, when two or more entities form an association that meets the service-specific definition of a ''consortium,'' the gross revenues of each entity will not be attributed to each entity in determining eligibility for designated entity status. The Commission believes that this clarification to the general definition of the term ''affiliate'' will enhance the ability of small businesses to form associations that will permit them to bid for licenses that would be too expensive for them individually. Auction winners have successfully used consortium structures to acquire licenses and ''spin-off'' licenses post-auction, and the Commission wishes to continue to make this option available.

24. *Definition of Rural Telephone Company*. The National Telephone Cooperative Association (''NTCA'') and the Rural Telecommunications Group (''RTG''), commented in support of the Commission's proposal in the *Notice* to adopt the definition of a rural telephone company contained in the Telecommunications Act of 1996 as the single definition of the term to be used in all auctionable services. No commenters opposed this proposal. As the Commission noted in the *Notice*, when the Commission amended the broadband PCS rule, the Commission stated that using the definition contained in the 1996 Act would likely expedite the delivery of advanced services to rural areas. the Commission also noted that adopting the 1996 Act definition would promote uniformity of regulations and is therefore consistent with the mandate of that legislation to ease regulatory burdens and eliminate unnecessary regulation. The Commission believes that the same reasons for amending this definition in the broadband PCS rules justify amending the definition in Part 1 for all services subject to competitive bidding.

25. Thus, the Commission amends § 1.2110(b)(3) to define the term *rural telephone company* as a local exchange carrier operating entity to the extent that such entity—(A) provides common carrier service to any local exchange carrier study area that does not include either (i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census, or (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993; (B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines; (C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or (D) had less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

26. *Installment Payments.* After careful review of the comments in this docket, and the Commission's recent decisions in the broadband PCS C block, LMDS and 800 MHz SMR services, the Commission has determined that installment payments should not be used in the immediate future as a means of financing small business participation in the Commission's auction program. *See also* ''FCC Announces Spectrum Auction Schedule for 1998,'' *Public Notice*, DA 97–2497 (rel. November 25, 1997), announcing the following upcoming auctions: LMDS, 220 MHz, broadband C block Reauction, 39 GHz, Paging, 800 MHz SMR (Lower 80 and General Category Channels), Location Monitoring Services (LMS), Public Coast Stations, Pending Analog Broadcast Licenses for Commercial Radio and Television Stations, and ''FCC Announces Auction Schedule for the General Wireless Communications Service,'' *Public*

Notice, DA 97–2634 (rel. December 17, 1997). The Commission must balance competing objectives in Section 309(j) that require, *inter alia*, that it promote the development and rapid deployment of new spectrum-based services and ensure that designated entities are given the opportunity to participate in the provision of such services. The Commission notes that its experience has demonstrated that installment payments may not be necessary to ensure a meaningful opportunity for small businesses to participate successfully in our auction program. For example, in the cellular auction of licenses for unserved areas, which had no special bidding provisions, 36 percent of the licenses went to small or very small businesses. The Commission also stated that in assessing the public interest, we must try to ensure that all the objectives of Section 309(j) are considered. The Commission has found, for example, that obligating licensees to pay for their licenses as a condition of receipt requires greater financial accountability from applicants.

27. In addition, questions have been raised in bankruptcy litigation about whether the Commission can quickly reclaim licenses should a licensee declare bankruptcy (even though licenses are expressly conditioned upon payment and cancel automatically in the event of non-payment) resulting in significant delays in the provision of service to the public. While the Commission is confident of prevailing in any litigation, until controlling precedent is established or legislation addressing the conflicting rights is enacted, such delays may occur. In this regard, the Commission has strongly urged Congress to adopt legislation that would clarify that provisions of the Bankruptcy Code (1) are not applicable to any FCC license for which a payment obligation is owed; (2) do not relieve any licensee from payment obligations; and (3) do not affect the Commission's authority to revoke, cancel, transfer or assign such licenses. The Commission also notes that, in order to balance the impact on small businesses of its decision to discontinue the use of installment payments in the near future, the Commission is adopting higher bidding credits than those proposed in the *Notice*.

28. Therefore, subject to the Commission's proposals in the *Second Further Notice of Proposed Rule Making*, the Commission concludes that until further notice, installment payments should not be offered in auctions as a means of financing small businesses and other designated entities seeking to secure spectrum licenses. Consistent with this decision, the Commission hereby eliminates installment payments in the auction of the lower 80 and General Category channels in the 800 MHz SMR service. Although Merlin submits that the elimination of the Commission's installment payment provisions in any service would be contrary to the Commission's conclusions in previous rule makings, the Commission believes that this decision is consistent with suggestions of CIRI, as well as the Commission's general experience in examining the success of the installment payment program to date. As the Commission recently recognized in eliminating installment payments for LMDS licensees, Congress did not require the use of installment payments in all auctions, but rather recognized them as one means of promoting the objectives of Section 309(j)(3) of the Communications Act. The Commission continues to experiment with different means of achieving its obligations under the statute, and has offered installment payments to licensees in several auctioned wireless services. Installment payments are not the only tool available to assist small businesses. Indeed, the Commission have conducted auctions without installment payments. Moreover, Section 3007 of the Balanced Budget Act requires that the Commission conduct certain future auctions in a manner that ensures that all proceeds from such bidding are deposited in the U.S. Treasury not later than September 30, 2002. Although the Commission seeks comment in the *Second Further Notice of Proposed Rule Making* on offering installment payment plans in the future, the Commission believes that Section 3007 may require that these auctions be conducted without offering long-term installment payments. *See* Balanced Budget Act of 1997. The Conference Report on the Balanced Budget Act of 1997 indicates that the deadline set forth in Section 3007 ''applies to all competitive bidding provisions in this title of the conference agreement and any amendments to other law made in this title.'' Conference Report on H.R. 2015, Balanced Budget Act of 1997, Congressional Record—House, Vol. 143, No. 109—Part II, at H6176.

29. In this regard, the Commission agrees with commenters such as CIRI, that contend that increased bidding credits will allow responsible small bidders with appropriately tailored business plans to secure adequate private financing to be successful in future auctions. Further, as the Commission has already noted, Section 309(j) requires the Commission to consider alternative methods to allow for dissemination of licenses among designated entities, including small businesses. The Commission believes that the rules it adopts below regarding the use of bidding credits for small business applicants in future auctions will both fulfill the mandate of Section 309(j) to provide small businesses with the opportunity to participate in auctions and ensure that new services are offered to the public without delay.

30. Merlin contends that while significant bidding credits can be useful in helping smaller entities win licenses when they bid against larger companies, bidding credits alone do not help smaller entities access the capital required to build a spectrum-based service. In addition, Merlin states that eliminating the installment payment plan would raise the cost of capital for small businesses which would be forced to borrow additional funds from commercial lenders at higher interest rates. Merlin also argues that because many small businesses have relied on the current installment plan terms in formulating business plans necessary to bid in upcoming auctions, any decision to eliminate the installment payment program could effectively preclude small business participation in future auctions altogether. The Commission disagrees with Merlin's assertions. As the Commission has discussed, the Commission believes that the increased bidding credits it adopts below will help fulfill the mandate of Section 309(j)(4)(D) of the Communications Act to provide small businesses with the opportunity to participate in spectrum-based services. As noted above, this approach was successful in enabling small businesses to participate in the WCS auction, in which the Commisison was unable to employ installment payments because of the statutory deadline for depositing auction revenues in the U.S. Treasury. The Commission also recently used this approach in establishing rules for the auction of licenses for 800 MHz SMR and LMDS.

31. The Commission recognizes that it previously adopted rules for both the 220 MHz and paging services that permit eligible small businesses to pay for their licenses in installments. Several petitions for reconsideration have been filed in these proceedings that remain pending before the Commission. The Commission will resolve these petitions separately in a manner consistent with our decision herein to suspend the use of installment payment plans at least until our rights

to recover and reauction licenses in a timely fashion are established.

32. *Bidding Credits.* Although all commenters addressing the issue are largely supportive of the use of bidding credits as a means of ensuring the widest possible participation in future auctions, there is disagreement among commenters as to whether a standard schedule of bidding credits for small businesses is desirable. For example, CII supports our proposal to standardize the sliding scale of bidding credits that is available to an applicant. Specifically, CII believes that granting businesses of different sizes different levels of bidding credits in different services threatens to result in inconsistent participation by small businesses in spectrum auctions. In contrast, some commenters oppose any set schedule of bidding credits, and believe that the Commission should specify appropriate bidding credits for each auctionable service. Among these, PCIA and AMTA believe that the Commission should continue to examine what constitutes an effective bidding credit on a service-by-service basis because the financing requirements of different spectrum-based services may necessitate use of different size bidding credits to provide the proper assurances that small businesses will be able to effectively compete. As the Commission stated in the *Notice,* the Commission believes that an approach in which the Commission provides certainty for future auctions about the size of available bidding credits will benefit small businesses because potential bidders will have more information well in advance of the auction than previously about how such levels will be set. Once a small business definition is adopted for a particular service, eligible businesses will benefit they are able to refer to a schedule in our Part 1 rules to determine the level of bidding credit available to them. The Commission therefore adopts its proposal to create a standard schedule of bidding credits.

33. In light of the Commission's decision to suspend installment payment financing for the near future, the Commission has determined that higher bidding credits than those proposed in the *Notice* would better effectuate our statutory mandate. Airadigm supports larger bidding credits than those proposed by the Commission. Similarly, CIRI contends that unless the Commission is prepared to establish the creditworthiness of installment payment applicants, the Commission should offer substantial bidding credits to small businesses in lieu of government financing. The Commission notes that some commenters argue that, in relation to installment payment provisions, bidding credits are less effective in allowing designated entities to participate in the Commission's auction program. For example, Pocket states that bidders often ''bid through'' bidding credits and that bidding credits tend to result in higher bids and, in general, higher auction prices. The Commission believes that without installment payments, bidding credits, coupled with providing bidders sufficient time to raise financing, will enable small businesses to successfully compete in future auctions. Also, tiered bidding credits have proven to work well and provide for more competition between small business participants of different sizes. The use of tiered bidding credits was successful in enabling small businesses to participate in the WCS auction, in which the Commission was unable to employ installment payments because of the statutory deadline for depositing auction revenues in the U.S. Treasury. Finally, while the Commission recognizes Pocket's concerns about the possibility that bidders ''bid through'' bidding credits, the Commission does not believe that this problem is significant where not all bidders are eligible for bidding credits, and the size of the bidding credit varies among those who are eligible.

34. Consistent with this reasoning, the Commission adopts the following schedule of bidding credits for use in future auctions in which provisions for designated entities are offered:

Average annual gross revenues	Bidding credits (percent)
Not to exceed $3 million	35
Not to exceed $15 million	25
Not to exceed $40 million	15

The Commission recognizes that these credits are higher than some previously adopted for specific services. Based on the Commission's past auction experience and the suspension of installment payments, however, the Commission believes that the approach taken here will provide adequate opportunities for small businesses of varying sizes to participate in spectrum auctions.

35. The Commission recognizes that Merlin recommends providing higher bidding credits than those which the Commission adopts. Specifically, Merlin suggests that (1) businesses with average gross revenues for the preceding three years not exceeding $3 million be eligible for bidding credits of 40 percent; (2) businesses with average gross revenues for the preceding three years not exceeding $15 million be eligible for bidding credits of 35 percent; and (3) businesses with average gross revenues for the preceding three years not exceeding $40 million be eligible for bidding credits of 25 percent. As discussed above, the Commission believes that higher bidding credits than those proposed in the *Notice* are necessary now that our installment payment program is suspended. The Commission believes that the schedule of bidding credits it adopts is reasonable in light of our decision to suspend installment payments for services auctioned in the immediate future, and expect that it will prove sufficient to enable small businesses to obtain spectrum licenses through our auction program. Thus, the Commission declines to adopt Merlin's proposal. The Commission also notes that it seeks comment in the *Second Further Notice of Proposed Rule Making* on means other than bidding credits and installment payments by which the Commission might facilitate the participation of small businesses in our spectrum auction program.

36. *Unjust Enrichment.* The Commission adopts its proposal to conform the Part 1 unjust enrichment rules to the broadband PCS rules. The Commission believes that effective unjust enrichment rules are necessary to ensure that meaningful small business participation in spectrum-based services is not thwarted by transfers of licenses to non-designated entities. As the Commission stated in the *Notice,* the broadband PCS unjust enrichment rules are preferable to our current general unjust enrichment rules because they provide greater specificity about funds due at the time of transfer or assignment and specifically address changes in ownership that would result in loss of eligibility for installment payments, which the current general rules do not address. The broadband PCS rules also address assignments and transfers between entities qualifying for different tiers of installment payments or bidding credits, thus supplying clearer guidance for auctions in which tiered installment payment plans or bidding credits are provided. Commenters addressing this issue largely support this decision. For example, Pocket and Ericsson both argue that modified unjust enrichment rules would still deter transfers designed to subvert the Commission's rules, but would provide businesses with more flexibility in situations of financial distress and permit the transfer

of individual licenses that no longer comport with their business plans.

37. Current as well as future licensees will be governed by the rules the Commission adopts providing for unjust enrichment payments upon assignment, transfer, partitioning and disaggregation. While the Commission did not receive significant comment on this issue, the Commission notes that in awarding licenses in the past, the Commission has emphasized that the terms associated with the continued grant of a license will be governed by current Commission rules and regulations. For example, in awarding licenses to C block licensees paying for their licenses in installments, the Commission indicated in the associated ''Note'' and ''Security Agreement'' that the terms of the installment plan would be governed by and construed in accordance with then-applicable Commission orders and regulations, as amended. Therefore, the Commission concludes that the unjust enrichment rules it adopts apply to existing licensees, and supersede service-specific rules where applicable. Specifically, these rules will supersede existing unjust enrichment provisions in the narrowband and broadband PCS, WCS, 900 MHz, and IVDS services. *See* 47 CFR 24.309(f) (narrowband PCS), 24.711 (C block), 24.716(d) (F block), 27.209(d)(1), (2) (WCS), 90.812(b) (900 MHz), 95.816(e) (IVDS). As discussed above, the Commission suspends the use of installment payments for the immediate future as a means of financing small business participation in the Commission's auction program. As a result, the Commission's decision with regard to unjust enrichment payments as they relate to licensees paying for their licenses in installment payments will apply only to existing licensees, their transferees and assignees (until the Commission reinstates installment payments).

Unjust Enrichment and Installment Payments

38. For existing licensees who make use of Commission installment payment financing, the Commission amends § 1.2111(c) to conform to the Commission's broadband PCS rules. Specifically, if a licensee seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of the assignment or transfer as a condition of Commission approval. Similarly, if the licensee seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee must first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval. If a licensee seeks to make any change in ownership that would result in the licensee qualifying for a less favorable installment plan, the licensee must seek Commission approval and must adjust its payment plan to reflect its new eligibility status.

Unjust Enrichment and Bidding Credits

39. For existing and future licensees who qualified or qualify in the future for a bidding credit in paying for their winning bid, the Commission also amends § 1.2111(c) to provide for unjust enrichment payments similar to those contained in the Commission's broadband PCS rules. Specifically, during the term of the initial license grant, if a licensee seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for bidding credits, or seeks to make any other change in ownership that would result in the licensee no longer qualifying for a bidding credit, the licensee must seek Commission approval and must reimburse the government for the amount of the bidding credit, plus interest based on the rate for U.S. Treasury obligations applicable on the date the license is granted, as a condition of the approval of such assignment, transfer or other ownership change. Similarly, if the licensee seeks to assign or transfer control of its license to an entity meeting the eligibility standards for lower bidding credits, or seeks to make any other change in ownership that would result in the licensee qualifying for a lower bidding credit under this section, the licensee must seek Commission approval and must pay to the United States Treasury the difference between the amount of the bidding credit obtained by the licensee and the bidding credit for which the assignee, transferee or licensee is eligible as a condition of the approval of such assignment, transfer or other ownership change. These provisions also will apply to licensees who partition or disaggregate their licenses.

40. The Commission also adopts its proposal in the *Notice* to provide for decreasing unjust enrichment payments for licensees that utilized a bidding credit when paying for their licenses and that make transfers and assignments occurring later in the license term. This decision also is supported by the commenters. In amending the rule in this manner, the Commission ensures that its general rule resembles those rules the Commission has adopted in specific services (*e.g.*, MDS, narrowband PCS, and 900 MHz SMR) that reduce the amount of unjust enrichment payments due on transfer based upon the amount of time the initial license has been held. Consistent with the rules that exist in these services, the amount of this payment will be reduced over time as follows: A transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit (or, in the case of very small businesses transferring to small businesses, 100 percent of the difference between the bidding credit received by the former and the bidding credit for which the latter is eligible); in year three of the license term the payment will be 75 percent; in year four the payment will be 50 percent; and in year five the payment will be 25 percent, after which there will be no payment. These assessments will have to be paid to the U.S. Treasury as a condition of approval of the assignment, transfer, or ownership change. All current and future licensees, with the exception of entrepreneur block licensees subject to restrictions on assignments and transfers of licenses, will be governed by this modification to our general rules. The Commission believes that our decision to maintain the original transfer restrictions for such licensees is proper in light of the special provisions which were made available for licensees in the Commission's entrepreneur blocks.

Unjust Enrichment and Partitioning and Disaggregation

41. Also as proposed in the *Notice,* the Commission will adopt a general rule modeled on the Commission's broadband PCS rules to determine the amount of unjust enrichment payments assessed for all current and future licensees. Thus, the Commission adopts a general unjust enrichment rule that treats partitioning and disaggregation by licensees in the same manner as the broadband PCS rule. Specifically, if the licensee seeks to partition any portion of its geographic service area, the amount of the unjust enrichment payment discussed above will be calculated based upon the ratio of population in the partitioned area to the overall population of the licensed area. Similarly, if a licensee seeks to disaggregate spectrum, the amount of the unjust enrichment payment will be determined based upon the ratio of the amount of spectrum disaggregated to the amount of spectrum held by the disaggregating licensee.

IV. Application Issues

42. *Electronic Filing.* The Commission believes that electronic filing of all short-form and long-form applications for auctionable services is in the best interest of auction participants, as well as members of the public monitoring Commission auctions. Therefore, the Commission amends §§ 1.2105(a) and 1.2107(c) of its rules to require electronic filing of all short-form and long-form applications, beginning January 1, 1999, unless it is not operationally feasible. Although in the *Notice* the Commission proposed to require electronic filing commencing January 1, 1998, the Commission believes that this additional phase-in period before the requirement becomes effective will benefit potential bidders. The majority of the comments addressing the issue support the decision to require electronic filing. For example, PageNet contends that electronic filing promotes access to applications by competing bidders, as well as the general public, by making it possible to review and download applications without traveling to FCC headquarters or contracting for photocopying of paper applications. To facilitate public access, the Commission has developed user-friendly electronic filing software and Internet World Wide Web forms to give auction applicants the ability to conveniently file and review applications. This software helps applicants ensure the accuracy of their applications as they are filling them out, and enables them to correct errors and omissions prior to submitting their applications. To assist the public, the Commission provides technical support personnel to answer questions and work with callers using the electronic auction system. In addition, the Commission has demonstrated its auction software at conferences organized by potential bidders and members of the industry in order to familiarize interested parties with our recent software enhancements.

43. AT&T is generally supportive of electronic filing, but proposes that the Commission create a waiver process whereby an applicant that has missed a filing deadline due to technical problems can obtain a waiver quickly or be permitted to submit a paper original of the application by hand or mail the same day. In addition, AT&T requests that a Commission staff member be provided with the authority to grant such a waiver in the event of electronic filing difficulties. The Commission does not believe that a specific waiver provision is necessary. The Commission's existing waiver provisions, which specify the showing required for the grant of a waiver, provide adequate assurance that requests for waiver relating to the electronic filing of applications will receive proper consideration. In addition, the Commission emphasizes that it has typically responded rapidly to time-sensitive waiver requests filed by auction applicants, and intends to continue to do so in the future.

44. Only one commenter, Airadigm, opposes an electronic filing requirement. Airadigm states that the Commission experienced difficulties in processing electronic filings during the IVDS auction and argues that removing the option of manual filing could result in similar problems in future auctions. The Commission believes that the system enhancements discussed above, most of which were not in place during the IVDS auction, adequately respond to Airadigm's concerns. The Commission also notes that its experiences from recent auctions demonstrate that the electronic bidding system is reliable. For example, in the broadband PCS D, E, and F block auction, 94 percent of the qualified bidders filed their short-form applications electronically. In the recently completed 800 MHz SMR auction, 93 percent of the qualified bidders filed their short-form applications electronically. The Commission did not experience problems with its electronic filing procedures.

45. Finally, as the Commission stated in the *Notice,* the Commission recognizes that there is a need for a period of time before a comprehensive electronic filing requirement becomes effective in order for bidders to prepare and be completely comfortable with this process. The effective date of January 1, 1999, will provide potential bidders with adequate time in which to adapt to electronic filing requirements. Finally, although the Commission concludes that electronic filing is the preferred filing method, the Commission nevertheless reserves the right to provide for manual filing in the event of technical failure or other difficulties.

46. *Short-form Application Amendments.* The majority of commenters support the Commission's proposal in the *Notice* to create a uniform definition of major and minor amendments to applicants' short-form (FCC Form 175) applications for all future auctions. However, commenters' opinions differ on what types of amendments the Commission should categorize as major or minor. For example, AT&T and ISTA argue that major amendments should include all changes in ownership that constitute a change in control, as well as all changes in size that would affect an applicant's eligibility for designated entity provisions. In contrast, Metrocall contends that all changes in ownership incidental to mergers and acquisitions, non-substantial *pro forma* changes, and involuntary changes in ownership should be categorized as minor. Metrocall also states that an applicant should not be permitted to upgrade its designated entity status after the short form filing deadline (*i.e.,* go from a ''small'' to ''very small'' business), but should be permitted to lose its designated entity status as a result of a minor change in control (*i.e.,* exceed the threshold for eligibility as a small business).

47. After careful consideration of the comments addressing the issue, the Commission concludes that a definition of major and minor amendments similar to that provided in the Commission's PCS rules, 47 CFR 24.822, is appropriate. After the short-form filing deadline, applicants will be permitted to make minor amendments to their short-form applications both prior to and during the auction. However, applicants will not be permitted to make major amendments or modifications to their applications after the short-form filing deadline. Major amendments will include, but will not be limited to, changes in license areas designated on the short-form application, changes in ownership of the applicant which would constitute a change in control, and the addition of other applicants to any bidding consortia. Consistent with the weight of the comments addressing the issue, major amendments will also include any change in an applicant's size which would affect an applicant's eligibility for designated entity provisions. For example, if Company A, an applicant that qualified for special provisions as a small business, merges with Company B during the course of an auction, and if, as a result of this merger, the merged company would not qualify as a small business, the amendment reflecting the change in ownership of Company A would be considered a major amendment. Otherwise, the new entity could receive small business bidding credits and installment payments when it does not qualify for them. As is the case in the Commission's PCS rules, however, applicants will be permitted to amend their short-form applications to reflect the formation of bidding consortia or changes in ownership that do not result in a change in control of the applicant, provided that the parties forming consortia or entering into ownership agreements have not applied for licenses

in any of the same geographic license areas. In contrast, minor amendments will include, but will not be limited to, the correction of typographical errors and other minor defects, and any amendment not identified as major.

48. As noted above, the Commission has generally refused to grant requests to add or delete markets on an applicant's short-form application in order to prevent collusive conduct or gaming that would reduce the competitiveness of the auction. While the Commission recognizes that there may be some circumstances in which the competitiveness of the auction might be enhanced by allowing applicants to add markets to their short-form applications, the Commission concludes that the risks of encouraging or facilitating conduct that negatively affects the competitiveness of the auction and the post-auction market structure outweigh the benefits of categorizing such amendments as minor. Several commenters support this conclusion that the addition or deletion of markets on the short-form application should always be deemed a ''major'' amendment. Specifically, PageNet states that because the only new information that an applicant could be deemed to possess at this stage would be licenses on which other applicants intend to bid, amendment of the short-form application in this regard could only lead to auction abuses. Those commenters supporting defining the addition or deletion of markets after the short-form filing deadline as a minor amendment argue that such an amendment should only be permitted prior to the upfront payment deadline or the release of the Public Notice announcing qualified bidders. After this point, the overall competitiveness of the auction may be threatened.

49. AT&T proposes that the deletion of markets to avoid specifying markets that overlap with another auction applicant (and thus preventing discussion on potentially non-auction-related matters such as interconnection, resale, and equipment orders that do not affect bids or bidding strategies) be deemed a minor amendment. The Commission notes that in previous auctions some applicants have inadvertently placed themselves at risk of violating the Commission's anti-collusion rule by choosing to specify ''all markets'' on their short-form applications when they intended to bid only on a particular license or group of licenses. As a general matter, the anti-collusion rule does not prohibit non-auction-related business negotiations between auction applicants that have applied for the same geographic service areas. AT&T argues that the aspect of the rule prohibiting the addition or deletion of markets often has had the unfortunate result of discouraging non-auction, business-related discussions between auction applicants who are not actually bidding for licenses in the same geographic license areas. Because of the potential anti-competitive results of allowing bidders to delete markets after the short-form filing deadline, however, the Commission believes that this type of error can be more effectively addressed by other means, including increased awareness on the part of prospective auction applicants of the consequences of choosing ''all markets,'' as well as software enhancements that make specifying particular markets on the FCC Form 175 less burdensome.

50. The Commission also emphasizes that, pursuant to § 1.65 of the Commission's rules, each auction applicant is required to assure the continuing accuracy and completeness of information furnished in a pending application. *See* 47 CFR 1.65. Each applicant is therefore under a continuing obligation to update its short-form and long-form applications as appropriate to reflect any changes that would make a pending application inaccurate or incomplete, or that are necessary to determine that an applicant is in compliance with our rules. As in all prior auctions, an application that is amended by a major amendment will be considered newly filed, and therefore will not be accepted after the short-form filing deadline. The Commission further notes that it has waived its *ex parte* rules as they apply to the submission of amended short-form applications to maximize applicants' opportunities to seek the advice of Commission staff when making amendments at any time after the short-form filing deadline.

51. Finally, the Commission notes that in the context of cellular unserved area licensing, WWC contends that the rules adopted in this proceeding addressing major and minor amendments to short-form applications should not apply to cellular unserved area applications filed in 1994 as these applications were to be governed by a ''letter-perfect'' standard and applicants were given no opportunity to cure minor defects. While the Commission has considered WWC's argument, the Commission believes that it is inapplicable. WWC addresses the initial application procedures for cellular unserved area licenses, while the Part 1 rules, in contrast, address application procedures for participation in an auction once a finding of mutual exclusivity has been made.

52. *Ownership Disclosure Requirements.* As the Commission indicated in the *Notice*, the Commission continues to believe that detailed ownership information is necessary to ensure that applicants claiming small business status qualify for such status, and to ensure compliance by all applicants with spectrum caps and other ownership limits. Disclosure of ownership information also aids bidders by providing them with information about their auction competitors and alerting them to entities subject to our anti-collusion rules. Therefore, the Commission adopts standard ownership disclosure requirements for all auctionable services that will avoid the variations found in the Commission's current service-specific ownership disclosure requirements.

53. This decision is widely supported by the majority of comments in this proceeding. Most commenters addressing the issue of ownership disclosure support requiring some level of ownership information at the short-form application stage. For example, PCIA believes that full disclosure of bidder ownership information is necessary if competing bidders are to accurately assess the legitimacy of their auction opponents and their respective bids. PCIA contends that there can be no valid reason for legitimate bidders to hide their ownership. Such information, according to PCIA, is crucial for purposes of the Commission's anti-collusion rules, spectrum caps, and other ownership limits. Similarly, PageNet contends that full ownership disclosure is important to aid bidders in compiling information about their auction competitors and, most importantly, to alert them to any conduct that might be a violation of the Commission's anti-collusion rules. In the satellite context, Hughes argues that the submission of detailed ownership information is essential because of the extreme costs associated with the build-out of a satellite system. In contrast, only CII argues that the Commission's objectives with regard to the rules governing designated entity status, spectrum caps, and other ownership limitations would be fully satisfied by deferring the filing of comprehensive ownership information until the long-form application stage.

54. For all future auctions, therefore, the Commission will model our reporting requirements on the general application requirements contained in our broadband PCS rules. Under this standard, all auction applicants will be required to disclose the real party or parties in interest by including as an exhibit to their short-form applications

detailed ownership information. Although the Commission's current Part 1 rules require auction applicants to list all owners of a five percent or greater interest in the applicant, the Commission agrees with commenters such as CII that argue that applicants should not be required to list all holders of this small an interest in the applicant, unless they are in a position of control by virtue of other factors (*i.e.,* voting agreements, management structure), or hold a significant passive ownership interest (*i.e.,* 20 percent). Thus, the Commission amends its rules to require that applicants list controlling interests as well as all parties holding a 10 percent or greater interest in the applicant and any affiliates of these interest holders. *See* 47 CFR 1.2110(b)(4). A 10 percent or greater interest reporting requirement is consistent with the revised definition of the term ''applicant'' we adopt for purposes of the anti-collusion rule. The Commission notes that PageNet contends that the Commission should require disclosure of entities and individuals that own more than five percent of the applicant or who have provided more than five percent of the applicant's equity. However, as suggested above, the Commission believes that the detailed reporting requirement we create today, in combination with our comprehensive affiliation rules, permits us to determine the ''real party or parties in interest'' when parties apply to participate in an auction.

55. Specifically, all auction applicants will be required to disclose: (1) A list of any FCC-regulated business, 10 percent or more of whose stock, warrants, options or debt securities are owned by the applicant; (2) a list of any party holding a 10 percent or greater interest in the applicant, including the specific amount of the interest; (3) a list of any party holding a 10 percent or greater interest in any entity holding or applying for any FCC-regulated business in which a 10 percent or greater interest is held by another party which holds a 10 percent or greater interest in the applicant (*e.g.,* if company A owns 10% of company B (the applicant) and 10% of company C, a company holding or applying for an FCC-regulated business, the companies A and C must be listed in company B's application); (4) the name, address and citizenship of any party holding 10 percent or more of each class of stock, warrants, options or debt securities, together with the amount and percentage held; (5) the name, address and citizenship of all controlling interests of the applicants, as this term is defined in § 1.2110 of our rules; (6) if the applicant is a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership; (7) if the applicant is a limited partnership, the name, address and citizenship of each general partner and each limited partner whose interest in the applicant is equal to or greater than 10 percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses); (8) if the applicant is a limited liability corporation, the name, address and citizenship of each of its members; and (9) a list of all parties holding indirect ownership interests in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equal 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest. *See, e.g.,* 47 CFR 20.6(d)(8).

56. In addition, consistent with the reporting requirements set forth in the 900 MHz SMR rules, the Commission will require that applicants claiming small business status disclose on their short-form applications the names of each controlling interest and affiliate, as these terms are defined in this proceeding, and to provide gross revenues calculations for each. On their long-form applications, such applicants will be required to disclose any additional gross revenues calculations, any agreements that support small business status, and any investor protection agreements. The Commission believes that these reporting requirements will help to assure that only qualifying applicants obtain the benefits of our small business provisions, without being unduly burdensome.

57. Finally, in a related proposal, PageNet states that Commission should expressly prohibit ''blind bidding'' (*i.e.,* bidding in which auction participants do not know the identities or ownership information of the other bidders in the auction) in any pending and future auction because it (1) is unfair to auction participants; (2) encourages auction abuses; and (3) encourages speculation. PageNet contends that these factors can have a significant impact upon the competitiveness of the auction and the post-auction marketplace. In situations in which an incumbent has already met the Commission's build-out requirements and must still bid in an auction in which blind bidding is used, PageNet contends that a competitor is often able to bid up the price of a license that it never intends to win in order to force the incumbent to buy the license at a higher price. PageNet further contends that this higher price is then reflected in higher rates for services, which in turn affect the incumbent's ability to compete. As discussed above, the Commission agrees that it is important that auction applicants disclose certain ownership information prior to the start of an auction. At the same time, however, the Commission believes that in certain circumstances, the competitiveness of an auction may be increased if less bidder information is made available. In the *Competitive Bidding Second Memorandum Opinion and Order*, the Commission retained the flexibility to conceal bidder identities if further experience showed that it would be desirable to do so. More recently, in the auction rules for geographic area paging licenses, the Commission concluded that the advantages of limiting information disclosed to bidders outweigh the disadvantages of this approach, and reserved the discretion to announce by Public Notice prior to the auction the precise information to be revealed to bidders during that auction. The Commission believes that the uniform rules adopted today provide the Commission with the necessary flexibility to tailor the amount of bidder information made available to applicants to ensure the competitiveness of each auction. The Commission therefore declines to adopt a provision prohibiting non-disclosure of bidder identities in all future auctions.

58. *Ownership Disclosure Filings.* The Commission believes that permitting applicants to file ownership information when they apply for their first auction, which would then be stored in a central database and updated each time the information changes during or after the first auction and when applicants participate in a subsequent auction, will streamline our application processes and minimize the burden on auction applicants. This concept is supported by the record. For example, CII and Airadigm argue that this approach will benefit auction applicants by reducing the time spent preparing auction applications, and will benefit the Commission by eliminating the need to review and analyze duplicative filings. The Commission believes that by requiring ownership disclosure filings, we ensure that we receive all the information necessary to evaluate an applicant's qualifications. As the

Commission indicated in the *Notice*, however, these requirements could result in duplicative filings. For example, where licenses for a service are offered in a series of blocks, as in the case of broadband PCS, an entity may wish to participate in several auctions, and would be required to disclose the same information a number of times. Under the system the Commission envisions, when applying to participate in subsequent auctions, applicants will be permitted to update the database or certify that there have been no changes in ownership and that the information contained in the database remains correct. The Commission will look to implement this process in the near future as part of our Universal Licensing System.

59. *Audits.* The only commenters to address this proposal, PageNet and Airadigm, support this proposal. Airadigm requests that applicants and licensees subject to audit be afforded sufficient time to provide information to the Commission and that the Commission issue written findings following its examination. The Commission therefore adopts its proposal, and will modify our rules governing status as a designated entity to expressly provide that applicants and licensees claiming eligibility for special provisions shall be subject to audits by the Commission. Such audits will be governed by the standards set forth in Sections 403 and 308(b) of the Communications Act. 47 U.S.C. 403, 308(b). The Commission believes that these provisions, as well as the general provisions of the Administrative Procedure Act, will adequately address Airadigm's concerns, and the Commission therefore declines at this time to adopt specific rules to govern audits of applicants and licensees conducted in the future.

V. Payment Issues

60. *Determination of Upfront Payment Amount.* In the *Competitive Bidding Second Report and Order*, the Commission indicated that the upfront payment should be set using a formula based upon the amount of spectrum and population (or ''pops'') covered by the license or licenses for which parties intend to bid. The Commission reasoned that this method of determining the required upfront payment would enable prospective bidders to tailor their upfront payment to their bidding strategies. At the same time, however, the Commission noted that determining an appropriate upfront payment involved balancing the goal of encouraging bidders to submit serious, qualified bids with the desire to simplify the bidding process and minimize implementation costs imposed on bidders. The Commission concluded that the best approach would be to maintain the flexibility to determine the amount of the upfront payment on an auction-by-auction basis, because this balancing may yield different results depending upon the particular licenses being auctioned.

61. Many commenters make specific proposals regarding the proper size and terms for assessing upfront payments in future auctions. For example, PageNet and CII suggest that the Commission adopt a standard upfront payment rule requiring separate upfront payments for each license identified in an applicant's short-form application. CII contends that this would reduce the number of ''phantom'' mutual exclusivities (*i.e.*, theoretical frequency conflicts caused by the fact that the current auction rules create no financial disincentive to list licenses in an application on which the applicant has no *bona fide* intention to bid). In contrast, Airadigm and NPCS argue that the Commission should not require a separate upfront payment for each license on which an entity elects to bid, as this would limit bidders' flexibility to change strategy and force them to reveal their bidding strategy prior to the start of the auction. In an alternate proposal, AirTouch and CII suggest that the Commission require applicants to increase their upfront payments as an auction progresses to equal a percentage of their total bids. AirTouch argues that this requirement would reduce the risk of defaults and discourage parties from submitting ''jump bids'' where they have no intention of actually winning a particular license. Similarly, to reduce the risk of default, CII recommends that when an applicant's upfront payment drops below a specific percentage of its high bid amount, the Commission allow the applicant to increase its deposit to a certain percentage of its high bid total within ten business days. In contrast to these two proposals, Airadigm opposes increasing the upfront payment requirement once a bidder's bid amount exceeds a certain multiple of the original upfront payment amount because this would create a significant barrier to small businesses.

62. The Commission agrees with Airadigm and NPCS that it is unnecessary to adopt additional rules governing the amount of the upfront payment and the terms under which it is assessed. The Commission believes its reasoning in the *Competitive Bidding Second Report and Order* remains valid, and that the required upfront payment should be tailored to the particular auction design and to the characteristics of the licenses being auctioned. This determination can be made in a variety of ways and using a variety of techniques to estimate the value of the spectrum being auctioned; however, as a general rule we have required an upfront payment equal to $0.02 per pop per megahertz. As discussed *infra*, under the current competitive bidding rules the Commission maintains the discretion to alter the amount of the required upfront payment or to modify the terms under which the upfront payment is assessed. The Commission believes that retaining this discretion provides the Commission with the greatest level of flexibility to determine the appropriate upfront payment amount on an auction-by-auction basis.

63. *Refund of Upfront Payments.* After considering the issue in light of Congress's 1996 amendment to Section 309(j)(8)(C) and the comments received in this proceeding, the Commission will continue our current practice of returning the upfront payments of bidders who have completely withdrawn from an auction prior to the conclusion of competitive bidding. As the Commission suggested in the *Notice*, it is unclear whether Congress intended, in amending Section 309(j)(8)(C), to require the Commission to change its practice of refunding upfront payments to bidders who withdraw during the course of an auction. The Commission continues to believe, however, that the prompt return of upfront payments is in the public interest, because it prevents unnecessary encumbrances on the funds of auction bidders, many of whom may be small businesses, after they have withdrawn from the auction. In addition, we believe that this practice minimizes the financial burdens of participating in an auction, because auction participants earn no interest on upfront payment funds on deposit with the Commission. Moreover, all commenters addressing the issue support our proposal to continue this practice. AirTouch proposes that the Commission retain an administrative fee based upon the number of rounds an applicant has remained in the auction when it refunds upfront payments to bidders who have withdrawn. Airadigm and AT&T state that not returning upfront payments in a prompt manner in circumstances where a bidder has withdrawn is akin to a ''fee'' that Congress did not intend to authorize, and that may work to discourage participation in the Commission's auction program. The Commission agrees with Airadigm and AT&T, and conclude that such a fee is

inappropriate, and therefore, rejects AirTouch's proposal.

64. Down Payment and Full Payment for Licenses

Level of Down Payments

65. The Commission created the down payment requirement in the *Competitive Bidding Second Report and Order,* in which the Commission concluded that at the conclusion of the auction, a bidder must tender a significant and non-refundable down payment to the Commission over and above its upfront payment in order to provide further assurance that the winning bidder will be able to pay the full amount of its winning bid. The Commission believes that a substantial down payment is required to ensure that licensees have the financial capability to attract the capital necessary to deploy and operate their systems, and to protect against default. Because it is due soon after the close of the auction, the down payment is a valuable indicator of a license applicant's financial viability. In addition, the Commission believes that it is important it learns early on in the licensing process when an applicant might be unable to finance its winning bid or bids.

66. Several commenters oppose any increase in the down payment beyond 20 percent of the high bid amount. Airadigm opposes granting the Bureau the discretion to establish a down payment amount because it believes that the Bureau could unfairly disadvantage small businesses by requiring disproportionately large down payments for auctions of particularly capital-intensive services. In addition, Airadigm states that granting the Bureau this discretion could complicate applicants' financing arrangements because down payment amounts could vary with each auction. After consideration of these comments, the Commission concludes that a standard down payment amount of 20 percent is appropriate. Finally, if unusual circumstances present themselves in the context of a particular service, the Commission reserves the right to adopt a different amount by rule in that service.

Untimely Second Down Payments and Full Payments

67. The Commission will amend sections 1.2109(a) and 1.2110(e) of its rules to permit auction winners to make their second down payments or final payments within ten business days after the applicable deadline, provided that they also pay an appropriate late fee, without being considered in default. As the Commission recognizes in the *Notice,* in past auctions there have been cases where a winning bidder missed the applicable second down payment deadline but subsequently made its down payment and filed a request seeking a waiver of the deadline. In some of these cases, the Bureau granted the waivers, subject to payment of a five percent late fee. In granting the waivers, the Bureau recognized the licensee's good faith and ability to pay as evidenced by its timely remittance of all earlier payments and prompt action to cure the delinquency.

68. The Commission recognizes that applicants may encounter unexpected or unforeseeable difficulties when trying to arrange financing and make substantial payments under strict deadlines. In circumstances that may warrant favorable consideration of a waiver request or an extension of the payment date, the Commission must also evaluate the fairness to other licensees who made their payments in a timely fashion. Two commenters, Mountain Solutions, Ltd. (''Mountain Solutions'') and AirTouch, the only commenters to address this issue in detail, support our proposal to permit late payment subject to a standard late fee for any licensee not able to make a timely payment. The Commission agrees, and amends § 1.2109(a) to permit winning bidders who are required to make final payment on their licenses within a certain period of time as announced by public notice, to submit their payment 10 business days after the payment deadline, provided that they also pay a late fee equal to five percent of the amount due. Although the Commission suspends the use of installment payments for the immediate future, in the event the Commission once again offers installment payments, the Commission will also amend § 1.2110(e) to permit auction winners paying for the licenses in installments to submit their second down payment 10 business days after the payment deadline, provided they also pay a late fee equal to five percent of the amount due.

69. As discussed above, the Commission's rules provide that winning bidders have ten business days to make timely payment following notification that their licenses are ready to be granted. The Commission believes that in establishing this additional ten business day period, during which winning bidders will not be considered in default, the Commission will provide an adequate amount of time to permit winning bidders to adjust for any last-minute problems. The Commission declines to provide for a lengthier late payment period because we believe that extensive relief from initial payment obligations could threaten the integrity, fairness, and efficiency of the auction process. As observed in the *Notice,* a late fee of five percent is consistent with general commercial practice and provides some recompense to the federal government for the delay and administrative or other costs incurred. In addition, we believe that a five percent fee is large enough to deter winning bidders from making late payments and yet small enough so as not to be punitive. Therefore, applicants who do not submit the required final payment and five percent late fee within the 10-day late payment period will be declared in default, and will be subject to the default payment specified in § 1.2104(g) of our rules. 47 CFR 1.2104(g).

70. Finally, the Commission emphasizes that its decision to permit late payments is limited to payments owed by winning bidders who have submitted timely initial down payments. The Commission continues to believe that the strict enforcement of payment deadlines enhances the integrity of the auction and licensing process by ensuring that applicants have the necessary financial qualifications. In this connection, the Commission believes that the *bona fide* ability to pay demonstrated by a timely initial down payment is essential to a fair and efficient auction process. Thus, the Commission has not proposed to modify its approach of requiring timely submission of initial down payments that immediately follow the close of an auction. The Commission did not propose to adopt a late payment period for down payments that are due soon after the close of the auction as the Commission believes it is reasonable to expect that winning bidders timely remit their down payments, given that it is their first opportunity to demonstrate to the Commission their ability to make payments toward their licenses. Further, if a winning bidder defaults on its down payment on a license, the Commission can take action under § 1.2109(b) relatively soon after the auction has closed, by, for example, re-auctioning the license or offering it to the other highest bidders (in descending order) at their final bids. Similarly, the Commission will not allow for any late submission of upfront payments, as to do so would slow down the licensing process by delaying the start of an auction.

Full Payment and Petitions To Deny

71. The Commission will suspend the use of installment payments as a means

of financing small business participation in our auction program for the immediate future. As a result, all auction winners, including small businesses, will be required to submit the full payment owed on their winning bids shortly after a license is ready to be granted. The Commission will recognize that in the past the filing of petitions to deny against a winning bidder's application(s) has often had the effect of significantly delaying the grant of the applicant's license(s), and as a result, the deadline for that applicant to submit the balance of its winning bid. However, in the Balanced Budget Act Congress granted the Commission the authority to shorten the petition to deny period, and as a result, to grant licenses much more rapidly. Balanced Budget Act, § 3008. As an initial matter, consistent with this legislation, the Commission amends §§ 1.2108(b) and (c) of its rules to provide that the Commission shall not grant a license earlier than seven days following issuance of a public notice by the Commission that long-form applications have been accepted for filing. 47 CFR 1.2108(b), (c). Also consistent with the Balanced Budget Act, the Commission amends this section to provide that in all cases the period for filing petitions to deny shall be no shorter than five days. In this regard, the Commission seeks comment in the *Second Further Notice of Proposed Rule Making* on whether there are instances in which the Commission should provide for a longer period for the filing of petitions to deny or for the grant of initial licenses in auctionable services.

72. In light of this change in our rules, the Commission believes that the concerns discussed in the *Notice* regarding delays in the granting of licenses and, as a result, in the deadline for full payment are substantially reduced. While applications that are the subject of petitions to deny ordinarily take longer to resolve than uncontested applications, the Commission believes these changes in procedure will reduce the risk of frivolous petitions being filed solely for purposes of delay, and will enhance our ability to resolve petitions expeditiously. Finally, the Commission believes that concerns regarding delayed payment are outweighed by the risk and uncertainty that would be imposed on an applicant if it were required to make its full auction payment while a petition against its application was still pending and could potentially result in denial of the application. As a result, the Commission declines to amend its rules to require all winning bidders to make their full payments at the same time, regardless of whether petitions to deny their applications have been filed.

73. *Default Payments.* The Commission adopts its proposal to delete the words ''simultaneous multiple-round'' from § 1.2104(g), and will apply the default/withdrawal payment procedure to all auction designs. Several commenters support this decision, maintaining that rigorous enforcement of the Commission's payment deadlines is critical to preserving the integrity of the auction and licensing process by ensuring that applicants possess the necessary financial qualifications. These commenters also suggest that default payments are an effective and necessary method of discouraging defaults and encouraging private market solutions to licensee financing difficulties. The Commission believes that this modification to our general rules governing bidder default will help to maintain the integrity of the auction process by discouraging defaults on the part of bidders, encouraging bidders to make secondary or back-up financial arrangements, and ensuring that default payments are made in a timely manner. The Commission also believes this modification will help to discourage insincere bidding and ensure that licenses end up in the hands of those parties that value them the most and have the financial qualifications necessary to construct operational systems and provide service. *See* 47 U.S.C. 309(j)(5).

74. Our rules provide that where a winning bidder defaults on a license, the bidder becomes subject to a default payment equal to the difference between the amount bid and the winning bid the next time the license is offered by the Commission, plus a payment equal to three percent of the subsequent winning bid or the amount bid, whichever is lower. *See* 47 CFR 1.2104(g)(2). In the *Competitive Bidding Fifth Report and Order,* the Commission stated that where the default payment cannot be determined, the Commission may assess an initial default payment ''of up to 20 percent'' of the defaulting bidder's winning bid. We adopt our proposal in the *Notice* to employ this practice for all auctionable services. No commenter addressed this issue. Although the Commission provided that this deposit amount will be up to 20 percent of the defaulted bid amount, we note that if a license is reauctioned for an amount greater than the defaulted bid for the license, the default payment due will be only three percent of the defaulted bid. 47 CFR 24.704(a)(2). *See also* 47 CFR 1.2104(g). Thus, in the future we will assess an initial default deposit of between three percent (3%) and twenty percent (20%) of the defaulted bid amount where a winning bidder or licensee defaults and the defaulted license has yet to be reauctioned. Once the license has been reauctioned by the Commission and the total default payment can be determined, the Commission will either assess the balance of the appropriate default payment, or refund any amounts due, as necessary.

75. Installment Payments

Late Payments

76. In order to add certainty to the installment payment process, the Commission adopts its proposals from the *Notice* to modify its grace period provisions. As discussed above, the Commission declines to use installment payments for the immediate future as a means of financing small business participation in our auction program. As a result, the Commission's decision with regard to late payment fees for installment payments effectively will apply only to existing licensees who are currently paying for their licenses in installments. From this point forward, instead of considering individual grace period requests, the following system will apply: A licensee who does not make payment on an installment obligation will automatically have an additional 90 days in which to submit its required payment without being considered delinquent, but will be assessed a five percent late payment fee as discussed above. If the licensee fails to make the required payment at the close of this first 90-day non-delinquency period, the licensee will automatically be provided a subsequent 90-day grace period, this time subject to a second, additional late fee equal to ten percent of the initial required payment.

77. As proposed in the *Notice,* under this system, licensees will not be required to submit a filing to take advantage of these provisions. During this 90-to-180-day period, the Commission or its designated collection agent will continue to pursue collection of past-due installments and fees. Also during this time, the licensee will have the opportunity to raise necessary capital, continue service and construction efforts, or seek a buyer for its license(s) that will resume payments. These late payment provisions will apply independently to all installment payments. Therefore, the late payment provisions and accompanying late fees will not affect the payment schedule for future payments. Thus, even if a licensee elects to take advantage of the late payment provisions, the licensee

will still be responsible for remitting all future installment payments in a timely manner, unless the licensee elects to take advantage of the late payment provisions for any future installment payment. The following example illustrates how this system will operate:

ABC Corp. has a $100,000 installment interest payment due on March 1. If ABC Corp. is able to make its payment on March 1, then it must remit $100,000 to the Commission. If ABC Corp. makes its payment anytime from March 2 until May 30 (the end of the non-delinquency period), then ABC Corp. must remit $105,000 to the Commission to be considered current on its March 1 installment payment. If ABC Corp. does not make its March 1 payment by May 30, then it must remit $115,000 on or before August 28. If ABC Corp. does not remit the required $115,000 by August 29 (the end of the 90-day grace period), then it will be considered in default and its license will automatically cancel on August 30 without further action by the Commission. *See* 47 CFR 1.2110(e)(4)(iii).

ABC Company's June 1 installment payment of $100,000 remains due on June 1 regardless of the payment status of the March 1 payment. The late payment terms apply to June installment payment independently of the March payment. Thus, if ABC Company does not make its March 1 payment until June 1, the total amount due to the Commission on June 1 is $215,000 which consists of the March payment, the March 5% non-delinquency late fee, the March 10% grace period late fee and the June payment. Assuming the licensee remits the March 1 payment and accompanying March late fees of $115,000 to the Commission by August 29, then the total amount due to the Commission on September 1 will be $215,000 which consists of the June installment payment of $100,000, the June 5% non-delinquency late fee, the June 10% grace period late fee and September installment payment of $100,000.

ABC Company may elect to make late payments and pay the accompanying late fees on the March and June payments. However, ABC Company must remit $115,00 representing the required March payment and accompanying March late fees by August 29 (the end of March's 90-day grace period) or it will be considered in default and its license will automatically cancel on August 30 without further action by the Commission. Furthermore, ABC Company must remit and additional $115,000 representing the required June payment and accompanying June late fees by November 29 (the end of June's 90-day grace period) or it will be considered in default and its license will automatically cancel on November 30 without further action by the Commission.

As proposed in the *Notice*, the late fees the Commission adopts will accrue on the next business day following the payment due date and will be payable with the next quarterly installment payment obligation. The Commission emphasizes that at the close of non-delinquency or grace period, a licensee must submit the required late fee(s), all interest accrued during the non-delinquency period, and the appropriate scheduled payment with the first payment made following the conclusion of the non-delinquency period or grace period. Payments made at the close of any grace period will first be applied to satisfy any lender advances as required under each licensee's ''Note and Security Agreement.'' Afterwards, payments will be applied in the following order: late charges, interest charges, principal payments. As part of the Commission's spectrum management responsibilities, the Commission wishes to ensure that spectrum is put to use as soon as possible. The Commission also believes that licensees should be working to obtain the funds necessary to meet their payment obligations before they are due and, accordingly, that the non-delinquency and grace periods the Commission adopts should be used only in extraordinary circumstances. Thus, as the Commission emphasized in the *Notice*, a licensee who fails to make payment within 180 days sufficient to pay the late fees, interest, and principal, will be deemed to have failed to make full payment on its obligation and will be subject to license cancellation pursuant to § 1.2104(g)(2) of the Commission's rules.

78. Several commenters support the Commission's efforts to provide licensees with predetermined non-delinquency periods without requiring the submission of a formal grace period request. In addition, many of the commenters addressing this issue, including AMTA, Hughes, AirTouch, Mountain Solutions and CII support the imposition of a late payment fee similar to that imposed in the broadband F block auction, in order to create a significant incentive for timely payment of installment obligations. CII believes that modifying our current grace period procedures will provide licensees with knowledge in advance of the extent of any relief that will be forthcoming from the Commission to a licensee who misses an installment payment. AirTouch believes that any licensee who fails to make payment within 180 days should face the automatic cancellation of its license. AirTouch contends that once a certain number of installment payments have been submitted late, the Commission should declare the licensee in default and subject to the default payments proposed in the *Notice*. In contrast, only CIRI opposes this liberalization of the current grace period rules, requesting instead that grace period relief be made available only when a licensee can demonstrate that such relief is warranted and the public debt will ultimately be satisfied. Although Hughes recommends the imposition of a ''significant'' late fee to the extent that an applicant misses a payment deadline, Hughes believes that a five to ten percent late fee is large enough to discourage late payments and to ensure that the government is compensated for its administrative expenses in recouping the payment. As an alternative to our proposal in the *Notice*, GWI proposes that any such late payment fee should be pro-rated over the 90-day payment period instead of accruing all at once regardless of when the late payment is made, in order to provide an economic incentive for licensees who are overdue in their payment obligations to retire the payment quickly instead of waiting until the end of the payment period. In addition, GWI suggests that such a pro-rated payment is fairer to licensees who inadvertently miss a required payment through administrative error or other unavoidable, unforeseen circumstances.

79. As an alternative to the Commission's proposals in the *Notice*, Airadigm contends that following the first 90-day non-delinquency period, licensees should be given a second 90-day period with a five percent late fee, followed by a third 90-day grace period with a 10 percent late fee. ISTA believes that a rule whereby any license is cancelled at the close of the second 90-day grace period is draconian, and that such a ''hard-and-fast'' automatic cancellation rule would doom many small businesses. GWI opposes the imposition of an additional 10 percent late payment fee where licensees require an additional 90-day late payment period. The Commission declines to adopt these alternate proposals. As the Commission indicated in the *Notice*, the grant of a grace period is an extraordinary remedy and we wish to encourage licensees to seek private market solutions to their capital problems before the payment due date. In this regard, the Commission notes that it has an obligation under the Debt Collection Improvement Act to enforce payment obligations owed to the federal

government. *See Debt Collection Improvement Act*, Pub. L. 104–134, § 3100(j)(i), 110 Stat. 1321 (1996), codified at 31 U.S.C. 3711(a) (''DCIA'').

80. The Commission believes that the automatic grace period provisions we adopt today provide licensees with adequate financial incentives to make installment payments on time, while at the same time creating increased certainty that will help licensees pursue private market solutions to their financing difficulties. These provisions also will discourage licensees from attempting to maximize their cash flow at the government's expense by submitting a required installment payment after it is due. Several commenters agree with this assessment. At the same time, these provisions will eliminate uncertainty for many licensees who are seeking to restructure other debt contingent upon the results of the Commission's installment payment provisions. In addition, this system will ease the burden on the Commission of considering individual grace period requests where Commission or its designee may not have the necessary resources to evaluate a licensee's financial condition, business plans, and capital structure proposals. The Commission recognizes that some commenters oppose the imposition of a late fee on overdue installment payment, and in particular on the 90-day non-delinquency period. However, this approach is consistent with the standard commercial practice of establishing late payment fees and developing financial incentives for licensees to resolve capital issues before payment due dates. This approach also is consistent with the provisions of the DCIA, which requires that the Commission notify the Secretary of the Treasury and commence debt collection procedures where a party is more than 180 days past due on any outstanding debt owed to a federal agency. *See* 31 CFR 3711(g)(1).

81. The Commission recognizes that a number of commenters oppose the application of these provisions to current licensees. In particular, GWI and IVDS Enterprises argue that to the extent the Commission adopts a late payment fee, it should limit the imposition of such a fee to licenses issued in future auctions. However, the Commission's recent experience with the installment payment program has shown the importance of ensuring that all licensees, including current licensees, have adequate financial incentives to make installment payments on time. The Commission notes that in awarding licenses in the past to entities choosing to pay in installments, the Commission has emphasized that the terms of the installment payment program will be governed by current Commission rules and regulations, as amended. For example, in awarding licenses to C block licensees paying for their licenses in installments, the Commission indicated in the associated ''Note and Security Agreement'' that the terms of the installment plan would be governed by and construed in accordance with then-applicable Commission orders and regulations, as amended. The Commission also believes that these licensees should obtain the benefit of increased certainty that provisions for automatic grace periods provide. This decision is supported by Mountain Solutions, who requests that current licensees obtain the benefits of any loosening of the late payment fee and grace period rules.

82. As provided in the *Second Report and Order and Further Notice of Proposed Rule Making* in this docket, installment payments for C and F block licensees will resume effective March 31, 1998. *See* Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, *Second Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 97–82 62 FR 55348 (October 24, 1997) (''*Second Report and Order and Further Notice of Proposed Rule Making*''). Under the Commission's decision to reinstate installment payments for these licensees, the Commission provided them with one automatic 60-day non-delinquency period following the March 31, 1998, deadline, during which time they will not be considered delinquent in their payment obligations. As the Commission indicated in the *Second Report and Order and Further Notice of Proposed Rule Making*, the Commission will not entertain any requests for extension of the March 31, 1998 deadline beyond an automatic 60-day non-delinquency period, so that for C and F block licensees all required payments must be submitted no later than May 30, 1998. Only those licensees making a timely payment of all amounts due, as set forth in the *Second Report and Order* will be permitted to take advantage of the late payment provisions the Commission adopts today. *See* 47 CFR 1.2110.

83. In commenting on these modifications to the grace period provisions, CIRI also proposes that the Commission make public the terms of any workouts or debt relief provided to licensees. CIRI notes that parties may request confidential treatment of sensitive financial information pursuant to § 0.459 of the Commission's rules, and that such confidential treatment should be sufficient to safeguard the privacy interests of licensees, while still making the terms of any workout available for public scrutiny. As an initial matter, because the Commission adopts its proposals providing for automatic grace periods, the Commission does not envision licensees filing grace period requests under normal circumstances from this point forward. As a result, the Commission believes that CIRI's concerns about the Commission making public a licensee's request for grace period relief are moot. Moreover, because from this point forward a licensee's taking advantage of our late payment provisions will be an administrative matter processed by the Commission's loan servicer, and not a formal waiver request, aside from instances where a licensee is declared in default, there will be no public notice of a licensee's payment status. The license is cancelled automatically under such circumstances. In contrast, for licensees who have previously filed grace period requests consistent with the Commission's current rules and procedures, the Commission will continue its current practice of making the request public when a decision is released granting or denying the request, except to the extent that any request by the licensee for confidential treatment is granted pursuant to § 0.459 of the Commission's rules. *See* 47 CFR 0.459. The Commission further clarifies that such licensees are not deemed to be in default on these licenses until such time as the Bureau issues a decision on these grace period requests. Licensees whose requests for a grace period are denied will have ten (10) business days to make the required payment or be considered in default.

Defaults on Installment Payments

84. The Commission will not adopt its tentative conclusion to apply the default provisions of § 1.2104(g) to licensees who default on an installment payment. Most commenters addressing the issue oppose this proposal. For example, Pocket submits that default payments assessed later in the license term become highly arbitrary and unduly burdensome. Pocket also contends that such payments are greater than those traditionally required for secured creditors and create substantial disincentives for investors and creditors who might otherwise be interested in providing financing for licensees. Pocket also notes that any default payment assessed disadvantages a licensee's other creditors, which also makes it more difficult for licensees to

raise capital. Finally, Pocket states that default payments assessed later in the license term have no deterrent effect as there is no basis to believe that licensees that have paid substantial sums to the Treasury will willingly default. In contrast, AirTouch supports our tentative conclusion that licensees that ultimately fail to fulfill their installment payment obligations despite the availability of a 90-day non-delinquency period and a subsequent, automatic 90-day grace period, should be declared in default, and in turn be made subject to the default payments proposed in the *Notice.*

85. The Commission has considered the comments of those who oppose the proposed assessment, and find that an additional payment requirement for licensees defaulting on installments is not necessary to achieve our stated objectives. The Commission's current rules and installment payment terms are adequate to discourage defaults and encourage licensees to find private market solutions when they face financial difficulties. The Commission also believes that the rules it adopts providing for a 90-day non-delinquency period followed by a subsequent, automatic 90-day grace period, subject to appropriate late fees of five percent for the 90-day non-delinquency period and 10% for automatic 90-day grace period, payable at the conclusion of these periods serve these goals without substantially risking delays or disruption in service to the public. In particular, the Commission believes that this certainty regarding the Commission's treatment of licensees needing extra time to make their installment payments will increase the likelihood that licensees and potential investors will find solutions to capital problems before a default occurs. The risk of losing its license should provide a licensee a strong incentive to avoid default. If, however, a default does occur, the conditions on the face of each license and the terms of the notes and security agreements executed by licensees provide the Commission appropriate remedies that will ensure that defaulted licenses are returned to the Commission for reauction and that all outstanding debts, as well as the Commission's costs, are recoverable.

Cross Default in the Context of Installment Payments

86. After consideration of the comments in this proceeding, The Commission concludes that it will not pursue a policy of cross default (either within or across services) where licensees default on an installment payment. Because the Commission will eliminate the use of installment payments as a means of financing small business participation in its auction program for the foreseeable future, the Commission notes that in practice this decision will apply only to existing licensees who are currently paying for their licenses in installments.

87. The Commission's decision not to pursue cross default remedies against current licensees who default on an installment payment is supported by the majority of commenters. For example, Airadigm contends that it is unfair to jeopardize an entire business because of a default on one license. Similarly, ISTA argues for separate treatment of separate services, regardless of ownership, lest a failure in one business cause failure in unrelated businesses. IVDS Enterprises proposes that licensees be able to discontinue installment payments on a particular license and allow that license to be cancelled or revoked. IVDS Enterprises believes that such a decision should not affect the licensee's other licenses, whether in the same or other services, where the licensee has made timely installment payments. Alternatively, Pocket believes that the Commission should reserve the authority to impose cross defaults on a case-by-case basis only for licensees that have demonstrated bad faith.

88. The Commission recognizes that some commenters strongly advocate a policy of cross defaults in this context. These commenters suggest that such a policy (1) prevents speculation during the auction and cherry-picking (*e.g.*, selectively defaulting on some licenses while keeping others) after the auction concludes, (2) encourages auction participants to find private market solutions to financial shortfalls, and (3) is consistent with commercial lending policies. The Commission believes, however, that the default provisions contained in § 1.2104(g)(2) serve as an adequate incentive to discourage speculation and encourage licensees to pursue non-default solutions to financial difficulties. The Commission also emphasizes that our decision on this matter only addresses default in the context of installment payments, and does not affect our policy with regard to defaults on down payments. In addition, by making licensees who default on an installment payment subject to the default payment set forth in § 1.2104(g)(2), the Commission created an additional deterrent to licensees considering default as a solution to financing shortfalls. The Commission believes that this policy will promote the goals of section 309(j) by not punishing otherwise successful licensees for failures in one market, and will strike an appropriate balance between our conflicting roles as both ''lender'' and ''regulator.'' Accordingly, upon default on an installment payment, a license will automatically cancel without further action by the Commission, the licensee will become subject to the default payment set forth in § 1.2104(g) of our rules, and the Commission will initiate debt collection procedures against the licensee and accountable affiliates. 47 CFR 1.2104(g), 1.2110(e)(4)(iii). *See also* 31 U.S.C. Chapter 37; 4 CFR Parts 101–105; 47 CFR Part 1, Subpart O.

VI. Competitive Bidding Design, Procedure, and Timing Issues

89. *Balanced Budget Act of 1997 Notice and Comment Procedures.* The Commission believes that in the past our service-specific rule making process has served the purpose of adequately ensuring that interested parties have sufficient time to familiarize themselves with the rules and procedures to be employed in an auction prior to the application deadlines and start date of that auction. The Commission nevertheless believes that this legislation requires that the Commission provide an additional opportunity for input from potential bidders prior to the issuance of detailed auction-specific information by the Bureau. To date, the Bureau has served as the primary point of contact with potential bidders and other parties interested in issues relating to each upcoming auction, and this has worked well. In light of the typically time-sensitive nature of most issues arising in the weeks prior to the start of an auction, the Bureau has been equipped to make determinations and respond rapidly to potential bidders' concerns. Consistent with the provisions of the Balanced Budget Act, and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions that will govern the day-to-day conduct of an auction, the Commission directs the Bureau, under its existing delegated authority, *see* 47 CFR 0.131(c), 0.331, 0.332, to seek comment on a variety of auction-specific issues prior to the start of each auction.

90. The Commission directs the Bureau to seek comment on specific mechanisms relating to day-to-day auction conduct including, for example, the structure of bidding rounds and stages, establishment of minimum opening bids or reserve prices, minimum acceptable bids, initial maximum eligibility for each bidder, activity requirements for each stage of the auction, activity rule waivers, criteria for determining reductions in

eligibility, information regarding bid withdrawal and bid removal, stopping rules, and information relating to auction delay, suspension, or cancellation. The Commission directs the Bureau to afford interested parties a reasonable time, in light of the start date of each auction and relevant pre-auction filing deadlines, to comment on auction-specific issues. In this regard, the Commission notes that it has been the Bureau's practice to release the public notice providing details concerning each upcoming auction sufficiently in advance of the short-form filing deadline (*e.g.*, 30 days prior to the deadline) to provide interested parties with an opportunity to develop business plans, assess market conditions and evaluate the availability of equipment. Also consistent with previous practice, the Commission recognizes that the Bureau needs the flexibility to announce, at any time in the weeks leading up to the start date of each auction, any minor, non-substantive amendments or clarifications to the specific mechanisms set forth in auction-related public notices or the Bidder Information Package. The Commission believes that this process is consistent with the requirements of section 3002(a)(1)(B)(iv) of the Balanced Budget Act, and will afford potential bidders adequate notice, as well as an opportunity to comment on the Bureau's intentions regarding issues relating to the day-to-day conduct of each auction.

91. *''Real time'' Bidding.* The Commission will adopt its proposal in the *Notice* to allow for ''real time'' bidding as an alternate design methodology in our rules. After careful consideration of the comments received in this proceeding, as well as its experience in conducting 15 auctions to date, the Commission concludes that ''real time'' bidding will allow auctions to proceed more rapidly because it will allow bidders immediate feedback on new high bids. The Commission also notes that in an effort to simplify the auction process and prevent ''gaming'' of bids, the Commission has recently modified its electronic bidding process by implementing ''click-box bidding.'' This feature, which replaces the field where bidders previously typed their dollar bid amount with a ''click on check box to bid'' field (where the only bid amount allowed is at the minimum acceptable bid) no longer allows bidders to type a bid amount on the Bid Submission screen. As such, ''click-box bidding'' can work well in a ''real-time'' bidding context because bidders can more rapidly respond to the bids of other bidders, permitting an auction to progress more rapidly and efficiently. The Commission has successfully employed click box bidding in the recently completed 800 MHz SMR auction, and plans to employ it in the forthcoming LMDS auction.

92. The Commission delegates to the Bureau the authority to determine whether the public interest will be served by ''real time'' bidding in a particular auction. Most commenters oppose the use of ''real time'' bidding, arguing it may be difficult for bidders to react quickly enough to ensure that in each bidding round they make new high bids on the necessary percentage of their bidding eligibility to meet their activity requirement. These commenters also believe that the somewhat accelerated pace of ''real time'' bidding may leave less time to craft informed bidding strategies during the auction.

93. As mentioned above, the ''click-box bidding'' format should significantly improve a bidder's ability to react quickly. Further, should the Commission determine to employ ''real-time'' bidding in the future, the Commission believes that the issues involving meeting activity requirements will be alleviated by our proposal in the *Notice* to open a discrete closed bidding period after each fixed period of ''real time'' bidding (when only standing high bids from the previous round and new high bids from the current round count in determining the bidder's activity level). During this closed bidding period, bidders will be able to submit valid bids (bids that meet or exceed the minimum accepted bid) to ensure that they have the opportunity to meet their activity requirements for the round. Following the discrete closed bidding period, the Commission will post the final round results for the period and make all bids available to the public. This discrete period should help to eliminate any risks of not meeting eligibility requirements or having time to formulate bidding strategies which commenters suggest may be associated with ''real time'' electronic bidding. In particular, this period will help to provide bidders sufficient time to meet eligibility requirements and will minimize the risks, suggested by some commenters, of the submission of erroneous bids.

94. One of the greatest advantages to ''real time'' bidding is that it allows bidders to obtain immediate feedback on new high bids, withdrawn high bids and minimum accepted bids, and thereby provides them with the opportunity to immediately respond to this information and move licenses toward their final valuations more quickly. The Commission believes that, particularly in the case of complex auctions of multiple licenses, it is one means of helping auctions to progress more efficiently. Under the current simultaneous multiple-round auction rules, each round of bidding contains a discrete bidding period during which bidders cannot see the actions of other bidders. Bidders must wait until the end of each round to see the bids placed by other bidders and determine their status as high bidder. In contrast, an open, continuous bidding round—in which bidders know when their bid has been exceeded and are free to bid again—can be used to reduce the delay inherent in the current design where a bidder must wait until the next discrete round to react to the actions of other bidders.

95. The Commission notes that some commenters express concern that the widespread use of ''real time'' bidding would increase the administrative costs of participating in the auction due to the incentive to stay on-line during the continuous bidding period and thereby work to exclude smaller entities that may lack the resources to devote to a concentrated bidding period or to stay on-line during the entire bidding period. The Commission agrees with commenters that under some circumstances the costs of participating in an auction in which bidders are required to be ''on-line'' may discourage the participation of small businesses. The Commission therefore concludes that the per minute charge for bidding ''on-line'' should be reexamined, and delegate to the Bureau that authority to implement such a reduced fee in the future, if appropriate.

96. No commenters addressed the Commission's tentative conclusion in that *Notice* that because ''real time'' auctions are a variation of the simultaneous multiple-round auction design established in our rules, many of the same procedures (*i.e.*, upfront payments to determine eligibility, activity requirements that apply to each round, minimum bid increments, and a stopping rule) should apply. These procedures have proven workable and easily understood by bidders in the context of our simultaneous multiple-round auction design, but some modifications to these procedures may be necessary if the Commission employs ''real time'' bidding. The Commission concludes that the Bureau should undertake this task.

97. Consistent with section 3002 of the Balanced Budget Act, the Commission directs the Bureau to seek comment from the public on auction-specific issues (*i.e.*, duration of bidding rounds and activity requirements) prior to the start of each auction. The

Commission believes that this practice of seeking comment on such issues prior to the start of each auction will adequately address any additional concerns associated with the use of ''real time'' bidding. The Commission also notes that it seeks, on an ongoing basis, to enhance and improve our bidding processes. The Commission believes that the Bureau should explore ''real time'' bidding consistent with the requirement under section 309(j) that the Commission experiment with different bidding methodologies. *See* 47 U.S.C. 309(j)(3).

98. *Combinatorial Bidding.* The Commission did not specifically seek comment in the *Notice* on the use of combinatorial bidding as an auction design methodology. The Commission's current Part 1 rules already provide for the use of combinatorial bidding as one of our competitive bidding design options. *See* 47 CFR 1.2103(b). In addition, the Commission was directed by Congress in the Balanced Budget Act of 1997 to consider the use of combinatorial bidding as an alternative auction design that could be used, in certain instances, as a means of speeding the auction process. Specifically, the Balanced Budget Act requires the Commission, for testing purposes, to design and conduct an auction in which a system of combinatorial bidding is used. Balanced Budget Act; 47 U.S.C. 309(j)(3)(i).

99. The Commission has insufficient information to determine how this relatively new bidding methodology might be used to improve our spectrum auction program. The Commission will seek comment on a number of issues relating to combinatorial bidding, and will more thoroughly address this issue once the record is complete. The Commission has also awarded a research and development contract to a private sector consultant to examine theoretical and applied combinatorial bidding approaches where licenses exhibit strong synergies and bidders have overlapping preferences (*i.e.*, prefer different packages of licenses). The contractor will also evaluate the most appropriate of the theoretical and applied approaches to combinatorial bidding for spectrum auctions and address a number of concerns raised by the Commission and other interested parties. The Commission's goal in awarding the contract is to allow private sector and government auction experts to address these concerns and investigate the possible effects of the use of combinatorial bidding on the auction process, including the Commission's fulfillment of the objectives of Section 309(j) of the Communications Act.

100. *Minimum Opening Bids and Reserve Prices.* Several commenters oppose the use of minimum opening bids. However, the Balanced Budget Act establishes a presumption in favor of a required minimum opening bid or reserve price. Balanced Budget Act, section 3002(a)(1)(C)(iii). The Commission therefore adopts its proposal in the *Notice* to delete the term ''suggested'' from § 1.2104(d). The Commission also clarifies that the Bureau has the authority to seek comment on minimum opening bids and reserve prices and to establish such mechanisms for each auction, consistent with its role in managing the auction process and setting valuations for other purposes (*e.g.*, setting upfront payment amounts). The Bureau shall establish a minimum opening bid and/or reserve price for each auction, unless, after comment is sought prior to a particular auction, it is determined that a minimum opening bid or reserve price would not be in the public interest.

101. The terms ''minimum opening bid'' and ''reserve price'' are traditionally different, and are employed for different purposes. A reserve price is defined as an absolute minimum price below which an auctioneer will not sell an object being auctioned. It may be disclosed to bidders before an auction or during an auction, or it may be kept secret, so that a ''winning'' bidder does not actually find out if the object has been won until after the auction has closed. Auctioneers generally employ reserve prices to order to maximize the revenue earned from an auction. A minimum bid is a minimum value below which bids will not be accepted in the first round of an auction. The level of a minimum opening bid is not unchangeable like a reserve price, but may be reduced at the discretion of the auctioneer if no bids are made at the existing level. The primary purpose of a minimum opening bid is to speed up the course of an auction. However, a minimum bid also can serve as a revenue-enhancing function like a reserve price, because if bids will not be accepted below a certain level, they will also not be sold below that level. That is, a minimum opening bid effectively functions as a reserve price unless or until it is reduced. Regarding the level of reserves or minimum bids, the Commission does not believe that the Balanced Budget Act provision means that it should now be attempting to *maximize* the revenue earned in all future spectrum license auctions. The other auction goals in the Act, such as ensuring the deployment and rapid deployment of new technologies and services and promoting economic opportunity and competition (*see* 47 U.S.C. 309(j)(3)) have not been eliminated, and the Commission must continue to balance and pursue them all. Therefore, the Commission concludes that the new provision does not call for traditional reserve prices. Rather, it calls for an added protection that licenses will not be assigned at unacceptably low prices.

102. The Commission believes that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions. The Commission directs the Bureau to seek comment on the use of a minimum opening bid and/or reserve price, as it will do for a variety of auction-specific issues, prior to each auction. In addition, the Bureau should seek comment on the methodology to be employed in establishing each of these mechanisms. Among other factors, the Bureau should consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands, and any other relevant factors that could reasonably have an impact on valuation of the spectrum being auctioned.

103. *Maximum Bid Increments.* Several commenters suggest that jump bidding is not a problem of serious concern. Some theoretical literature, however, suggests that bidders could use jump bidding to manipulate the auction process and potentially reduce efficiency of the auction. For example, a general principle of auction theory is that the auction mechanisms that perform the best are those which are able to induce bidders to reveal the most information. To the extent that jump bids enable bidders to conceal information, the phenomenon moves us away from the informational advantages of an ascending bid (multiple round) auction in the direction of a first-price sealed bid (single round) auction. As ISTA recognizes, jump bidding can complicate bidding strategy and deny bidders information about the number of bidders who would be willing to pay prices between the minimum acceptable bid and the jump bid. In the absence of information about the bidders who would be willing to participate at intermediate bids, other bidders may feel compelled to shade their bids more than they would otherwise. This behavior is an attempt to avoid the ''winner's curse,'' that is, the tendency for the winner to be the bidder who most overestimates the value of the item being auctioned.

104. As an initial matter, the Commission notes that recent changes designed to improve the Commission's electronic auction bidding process eliminate the dangers that a maximum bid increment is designed to avoid (*e.g.*, jump bidding). In an effort to speed the auction process and eliminate unwarranted ''gaming'' of our processes, the Commission has simplified the electronic auction bidding process by implementing ''click-box bidding.'' As discussed above, this feature permits bidders to enter a bid only at the maximum bid increment as determined by the Commission, and thus makes bidding tactics such as jump bidding impossible. Nevertheless, the Commission will reserve the discretion to employ a maximum bid increment should it return to an auction format in which jump bidding can in any way decrease the competitiveness of an auction. In this regard, the Commission disagrees with NextWave's suggestion that by disallowing jump bids as one method by which bidders may obtain information about each other the Commission risks prolonging an auction. On the contrary, the Commission has alternate methods (*e.g.*, ''click-box bidding,'' employing minimum bid increments and activity rules and increasing the number of rounds per day) to ensure that auctions close within a reasonable time.

105. *Bid Withdrawal Payments.* As discussed above, the Commission recently implemented ''click-box bidding'' in an effort to improve the auction process and eliminate erroneous bids. The Commission also recently modified the electronic bidding format to limit withdrawals. As a result of such changes, the types of erroneous bids discussed in the *Notice* cannot occur under our new bidding format. The Commission therefore concludes that its proposal regarding decreased bid withdrawal payments in cases of erroneous bids is moot.

106. *Misuse of Bid Withdrawals.* Several commenters oppose the Commission's proposal to place limits on bid withdrawals in certain circumstances as a means of avoiding strategic withdrawals that are intended for anti-competitive purposes. Both AT&T and Merlin argue that the ability to withdraw bids is critical to a bidder's auction strategy. While they recognize the difficulty in determining the true intent behind a withdrawn bid, these commenters suggest that the Commission continue to monitor each auction carefully, and address abusive behavior on a case-by-case basis. Similarly, PageNet states that the Commission should not limit bid withdrawals as they are critical to providing applicants with the flexibility to correct bids that are placed in error and to quickly change bidding strategy. PageNet contends that concerns about strategic withdrawals intended to produce anti-competitive results are not sufficient to eliminate the bidding flexibility that bid withdrawals provide. Finally, AirTouch suggests that the Commission permit bid withdrawals at any time, subject to certain conditions. In particular, AirTouch recommends that: (1) All bid withdrawals should be subject to applicable bid withdrawal payments; (2) a bidder withdrawing a bid should not be permitted to regain eligibility on any bidding units lost as a result of the withdrawal; and (3) the high bidder in the round prior to the withdrawn bid should be permitted to bid again on the license, and to reacquire eligibility for bidding units necessary to resubmit the new bid.

107. In contrast, NextWave supports a limitation on bid withdrawals. NextWave states that bid withdrawals are a necessary tool, but in some instances, bid withdrawals are used for insincere bidding designed to ''game'' the auction. To protect against such misuse, NextWave proposes, for example, that the Commission create a fourth stage of the auction, during which a bidder who has withdrawn from a particular market would be prohibited from re-bidding in the same market. In the past, the Commission has recognized that allowing bid withdrawals facilitates efficient aggregation of licenses and pursuit of efficient backup strategies as information becomes available during the course of an auction. Nevertheless, the Commission also has recognized that bidders may, in some instances, seek to remove bids for improper purposes, such as to delay the close of the auction for strategic purposes. For this reason, the Bureau has traditionally retained the discretion to limit withdrawals as part of the management of an auction. To prevent strategic delays to the close of the auction, or other abuses, the Bureau should exercise its discretion assertively. In addition, the Bureau should consider limiting the number of rounds in which bidders may withdraw bids, and to prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures. These are among the types of issues on which the Bureau will seek comment prior to the start of each future auction.

108. *Reauction Versus Offering to Second Highest Bidder.* The Commission will modify § 1.2109(b) to reserve the discretion to either reauction a defaulted license or offer it to the other highest bidders (in descending order) at their final bids. 47 CFR 1.2109(b). Several commenters support the reauction of defaulted licenses because it helps to ensure that the price paid for a license is the current price, rather than the price that was applicable at the time the original auction occurred. Only two commenters oppose reauction in all circumstances. Airadigm and AMTA oppose providing the Commission with the discretion to reauction defaulted licenses because they believe that awarding licenses to the next highest bidder will be faster than reauctioning. However, as the Commission stated in the *Notice*, the Commission has developed a computerized auction system and conducted numerous auctions and now believes that the costs of a reauction, even for a small number of relatively low value licenses, is generally minimal. The Commission also believes that the planned use of regularly scheduled quarterly auctions will ensure rapid reauction.

109. Further, the Commission notes that re-offering a defaulted license to the next highest bidder (in descending order) at their final bids may not ensure that the license will be awarded to the bidder who values it the most highly. In particular, as the license is offered to bidders at the next highest bids, other parties can argue that they would pay more for the license if given the opportunity. In addition, when more than one license is being auctioned, aggregation strategies may shift during the course of the auction, affecting the value placed on any individual license by a particular bidder. As the Commission discussed in the *Notice*, when it first adopted rules governing the licensing of defaulted licenses, the Commission stated that ''[i]n the event that a winning bidder in a simultaneous multiple-round auction defaults on its down payment obligations, the Commission will generally reauction the license either to existing or new applicants.'' Noting that in some circumstances the costs of conducting a reauction may not always be justified, the Commission reserved the discretion in cases in which the winning bidder defaults on its down payment obligation to offer a defaulted license to the highest losing bidders (in descending order of their bids) at their final bids if ''only a small number of relatively low value licenses are to be reauctioned * * *.''

110. Nextel and others suggest that the Commission should retain the discretion to award defaulted licenses to

the next highest bidder only when the default occurs soon after the close of the auction and there has been no opportunity for parties to file petitions to deny. Nextel suggests that in such an instance, there is little risk of a significant change in market price, and no risk of encouraging frivolous petitions to deny. The Commission is aware of the dangers of adopting a rule which could have the unfortunate consequence of encouraging the filing of frivolous petitions to deny. Nevertheless, the Commission believes that by reserving the discretion to either reauction defaulted licenses or award them to the next highest bidder, the Commission will be in the best possible position to determine which option serves the public interest in each particular situation.

VII. Anti-Collusion Rules

111. The Commission has taken this opportunity in revisiting our general competitive bidding procedures to examine the effectiveness of the anti-collusion rule in the 15 auctions the Commission has conducted to date. The Commission continues to believe that its anti-collusion rules are necessary to deter bidders from engaging in anti-competitive behavior. Nevertheless, after careful review of the comments received in this proceeding, the Commission has determined that some modifications to § 1.2105(c) can be made which will benefit bidders in several respects, without jeopardizing the competitiveness and overall integrity of our auction program.

112. In the *Collusion MO&O,* the Commission revisited the anti-collusion rules prior to the start of the PCS auctions, and concluded that allowing holders of non-controlling attributable interests in an applicant greater flexibility to form agreements with other applicants would help applicants to acquire the additional capital necessary to bid successfully for licenses. *See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, WT Docket No. 93–253, *Memorandum Opinion and Order,* 59 FR 64159 (December 13, 1994) (''*Collusion MO&O*''). The Commission therefore created an exception to the general rule contained in § 1.2105 to permit a holder of a non-controlling attributable interest in one applicant for a particular license or licenses to obtain ownership interests in or enter into consortium arrangements with a second applicant for a license in the same geographic service area. *See* 47 CFR 1.2105(c)(4). The attributable interest holder must certify to the Commission that it has observed and will observe certain restrictions on communication concerning the applicants in which it holds an attributable interest or with which it has entered into a bidding arrangement.

113. After considering the comments filed in response to our proposals in the *Notice,* the Commission has decided to adopt a second exception to our general rules prohibiting collusion. *See* 47 CFR 1.2105(c). Specifically, the Commission will permit a holder of a non-controlling attributable interest in an applicant to obtain an ownership interest in or enter into a consortium arrangement with another applicant for a license in the same geographic area provided that the original applicant has withdrawn from the auction, is no longer placing bids, and has no further eligibility. To meet the requirements of this exception, the attributable interest holder will be required to certify to the Commission that it did not communicate with the new applicant prior to the date the original applicant withdrew from the auction, and that it will not convey bidding information, or otherwise serve as a nexus between the previous applicant and the new applicant. As stated in the *Notice,* this additional exception will further facilitate the flow of capital to auction applicants by encouraging, and providing the flexibility necessary for, non-controlling investors to invest in other auction applicants if their original applicant fails to complete the auction. The majority of commenters addressing this proposal agree that it will encourage investment in auction applicants without threatening the overall competitiveness of the auction process.

114. Only Nextel and PageNet oppose this exception, citing the potential for collusive activity when an investor in an applicant that has chosen to withdraw from the auction explores possible investments in other applicants, thus learning bidding strategies of multiple auction participants. In addition, PageNet contends that this exception could encourage speculation which would threaten the integrity of the auction process and ultimately result in lower prices paid for the spectrum. However, after balancing these factors, the Commission believes that the benefits of this certification requirement, in particular the likelihood that auction applicants will be able to attract increased investment, exceed any possible disadvantages. The Commission requires that auction applicants certify to the truthfulness and accuracy of a number of issues on their Form 175 applications, and to make minor amendments when necessary. The Commission believes that applicants are no more likely to make false certifications about the exception which the Commission adopts today than about other information on the form. As discussed *infra,* the Commission also reminds prospective applicants that the Commission will conduct a detailed investigation in the event it becomes aware of a possible violation of the anti-collusion rule, and that violations may result in the loss of the down payment or full bid amount, the cancellation of licenses, and preclusion from participation in future auctions.

115. Commenters in both the Paging proceeding and in this proceeding support the creation of a safe harbor for discussions of certain non-auction related business matters between applicants for the same license areas. In general, these commenters argue that (1) the Commission's anti-collusion rules cause unnecessary confusion in their current form, (2) the purposes of the anti-collusion rules would not be threatened by such a safe harbor, and (3) existing antitrust laws and policies will adequately accomplish the goal of protecting the competitiveness of the bidding process. As the auction program has evolved, the Commission has continued to refine and clarify for bidders the operation and impact of the anti-collusion rule upon bidder conduct during the course of an auction. Prior to the start of the broadband PCS D, E and F block auction, the Bureau received numerous inquiries concerning the impact of these rules upon business contacts between current broadband PCS licensees and auction winners and eligible participants in the ongoing broadband PCS D, E and F Block auction. In response to these inquiries, the Bureau released a Public Notice providing guidance on these business negotiations in the context of our anti-collusion rules. The Bureau emphasized that § 1.2105(c) may affect the way in which auction applicants conduct their routine business during an auction by placing significant limitations upon their ability to pursue business opportunities involving services in the geographic areas for which they have applied to bid for licenses. These interpretations have provided sufficient guidance concerning the types of non-auction related communications which are permitted under § 1.2105(c), and the Commission therefore declines to create such a safe harbor.

16. The Commission affirms the Bureau's interpretation of this aspect of the anti-collusion rule. As a general matter, the anti-collusion rule does not prohibit non auction-related business

negotiations between auction applicants who have applied for the same geographic service areas. The Commission cautions auction applicants, however, that discussions concerning, but not limited to, issues such as management, resale, roaming, interconnection, partitioning and disaggregation may all raise impermissible subject matter for discussion because they may convey pricing information and bidding strategy. Because auction applicants should avoid all discussions with each other that will likely affect bids or bidding strategies, the Commission believes that individual applicants, and not the Commission, are in the best position to determine in the first instance which communications are permissible and which are not.

117. As discussed above, the *Notice* also invited comment on any other changes to our rules prohibiting collusion that commenters believe are warranted. Section 1.2105(c)(6)(i) of the Commission's rules provide that, for purposes of the anti-collusion rule, an applicant is defined as an entity submitting a short-form application, as well as all holders of partnership, ownership, and any stock interest amounting to five percent or more of the entity. 47 CFR 1.2105(c)(6)(i). One commenter, the Coalition of Institutional Investors (''CII''), states that defining any holder of five percent or more of an auction applicant as part of the applicant for purposes of the Commission's anti-collusion rules unnecessarily restricts applicants' abilities to obtain financing from a variety of sources. After careful consideration of the issue, the Commission agrees with CII. Therefore, the Commission will increase the attribution standard contained in § 1.2105(c)(6)(i) to 10 percent, or any holder of a controlling interest in the applicant.

118. A higher attribution standard will facilitate the flow of capital to applicants by enabling parties to make investments in multiple applicants, including applicants for licenses in the same geographic areas. The Commission's decision to use an attribution threshold of 10 percent is consistent with the change the Commission makes to the general reporting requirement. The Commission recognizes that some potential for collusion exists whenever an entity is permitted to hold an interest in more than one applicant for licenses in the same geographic service area. However, the Commission reemphasizes that auction applicants and their owners continue to be subject to existing antitrust laws, and that conduct that is permissible under the Commission's rules may be prohibited by the antitrust statute. In addition, the Commission reminds prospective auction participants it will continue to scrutinize carefully any instances in which bidding patterns suggest that collusion may be occurring.

119. Finally, the Commission reemphasizes that the Commission will aggressively investigate any allegations that an auction participant has violated § 1.2105(c). Bidders who are found to have violated the Commission's anti-collusion rules may, among other sanctions, be subject to the loss of their down payment or their full bid amount, face the cancellation of their licenses, and may be prohibited from participating in future auctions. In addition, where allegations appear to give rise to violations of the federal antitrust laws, the Commission may investigate and/or refer such cases to the United States Department of Justice for investigation.

VIII. Pre-grant Construction

120. The Commission will adopt its proposal in the *Notice* to permit applicants for all licenses awarded by competitive bidding to begin construction of facilities prior to the grant of their applications. All commenters addressing the issue support our proposal to permit license applicants to begin construction of their facilities, at their own risk, upon release of a public notice announcing the acceptance for filing of post-auction long-form applications. These commenters agree that allowing pre-grant construction furthers the statutory objective of rapidly deploying new technologies, products, and services for the benefit of the public. 47 U.S.C. 309(j)(3)(A).

121. Commenters also support our proposal to permit license applicants with petitions to deny filed against their long-form applications to begin construction of their facilities at the same time as license applicants whose licenses are not the subject of pending petitions to deny. While the Commission's current service-specific rules require as a condition for pre-grant construction no pending petitions to deny, the Commission concludes that the merits of petitions to deny may be judged by an applicant and factored into its assessment of the risk of proceeding with construction before license grant. The Commission therefore adopts a pre-grant construction rule for all services subject to competitive bidding that permits construction by applicants that are subject to petitions to deny. Of course, pre-grant construction will be subject to any service-related restrictions, including but not limited to antenna restrictions, environmental requirements, and international coordination. Any applicant engaging in pre-grant construction activity does so entirely at its own risk, and the Commission will not take such activity into account in ruling on any petition to deny. Finally, the Commission notes that it expects its licensing process to be more rapid generally in light of the shortened petition to deny period permitted by the Balanced Budget Act. Balanced Budget Act, section 3008.

IX. Conclusion

122. Based on the experience the Commission has gained from its 15 completed auctions, as well as the feedback it has received from bidders, the Commission believes the time has come to streamline its competitive bidding rules in order to make our licensing process more efficient. In the past, the Commission has adjusted its auction procedures for different services and has gained experience with the process, resulting in the adoption of different procedures for different auctionable services. This *Third Report and Order* amends subpart Q of part 1 of the Commission's rules to reflect substantive amendments and modifications intended to simplify these regulations, supersede unnecessary rules wherever possible, and eliminate the need to conduct separate, comprehensive rule making proceedings prior to each auction. The Commission believes that the rules it adopts today will benefit bidders and the auction process generally. The Commission also believes these rules will help to provide more specific guidance and flexibility on a number of issues that will increase the overall effectiveness of our auctions.

X. Final Regulatory Flexibility Analysis

123. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the expected impact on small entities of the rules adopted in the *Third Report and Order*. The Commission will send a copy of the *Third Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. (In addition, the *Third Report and Order* and FRFA (or summaries thereof) will be published in the **Federal Register**.) As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking in WT Docket No. 97–82.

See 5 U.S.C. 604. The RFA is codified at 5 U.S.C. 601 *et seq. See also,* Amendment of Part 1 of the Commission's Rules—Competitive Bidding Proceeding, WT Docket No. 97–82, *Order, Memorandum Opinion and Order, and Notice of Proposed Rulemaking,* 62 FR 13570 (March 21, 1997). The Commission sought written public comment on the proposals in the Notice of Proposed Rulemaking, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) in this Third Report and Order (Order) conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. 104–121, 110 Stat. 847 (1996).

A. Need for, and Objectives of, the Order in WT Docket No. 97–82

124. This Order makes substantive amendments and modifications to the Commission's general competitive bidding rules for all auctionable services. These changes to the competitive bidding rules are intended to simplify the Commission's rules and regulations and eliminate unnecessary rules wherever possible, increase the efficiency of the competitive bidding process, and provide more specific guidance to auction participants while also giving them more flexibility.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

125. One party, Merlin Telecom, Inc. (Merlin), filed comments directly in response to the IRFA. Merlin raises six arguments:

(1) Merlin urges the Commission not to impose additional reporting requirements or additional fees on applicants seeking installment payments. In this Order, the Commission concludes that installment payments should not be offered in auctions as a means of financing small businesses and other designated entities seeking to secure spectrum licenses. The Commission eliminates installment payments in the auction of the lower 80 and General Category channels in the 800 MHz SMR service. The Commission notes that installment payments are not the only tool available to assist small businesses. Section 3007 of the Balanced Budget Act requires that the Commission conduct certain future auctions in a manner that ensures that all proceeds from such bidding are deposited in the U.S. Treasury not later than September 30, 2002. The Commission seeks comment in the Further Notice on offering installment payments in the future; however, section 3007 of the Balanced Budget Act may require that these auctions be conducted without offering long-term installment payments. Thus, there probably will be no reporting requirements or fees for future installment payments.

(2) Merlin contends that including past affiliates in the proposed new definition of affiliate would require small businesses to keep more extensive records and would be unduly burdensome. This Order adopts a uniform definition of ''affiliate'' for all future auctions. The term ''affiliate'' is defined in the Part 1 rules as an individual or entity that directly or indirectly controls or has the power to control the applicant; is directly or indirectly controlled by the applicant; is directly or indirectly controlled by a third person(s) that also controls or has the power to control the applicant; or has an ''identity of interest'' with the applicant. The Commission concludes that this definition has helped to ensure that businesses seeking small business status are truly small. In addition, the Commission finds that this definition is consistent with the decision to adopt a controlling interest threshold for purposes of attribution of gross revenues of investors and affiliates of an applicant.

(3) Merlin argues that the Commission's proposal to lower the financial caps which permit small businesses to take advantage of special benefits would limit the number of small businesses eligible for benefits and thus increase the barriers to entry that small businesses face. This Order adopts the proposal in the Notice to continue to define small businesses based on the characteristics and capital requirements of a specific service, in order to reduce the barriers to entry faced by small businesses.

(4) Merlin argues that the Commission's proposals to reduce bidding credits, raise the interest rate on installment payments, raise down payments, and eliminate installment payments will have a negative effect on the ability of small businesses to compete effectively in the telecommunications industry. In this Order, the Commission concludes that installment payments should not be offered in auctions as a means of financing small businesses and other designated entities seeking to secure spectrum licenses. In the Further Notice, the Commission seeks comment on offering installment payments in the future; however, section 3007 of the Balanced Budget Act may require that these auctions be conducted without offering long-term installment payments. In light of the decision to suspend installment payment financing for the near future, the Commission determined that higher bidding credits would better fulfill the mandate of section 309(j)(4)(D) of the Communications Act to provide small businesses the opportunity to participate in spectrum-based services. Therefore, the Commission adopts bidding credits of 35 percent for designated entities with average gross revenues not to exceed $3 million, 25 percent for designated entities with average gross revenues not to exceed $15 million, and 15 percent for designated entities with average gross revenues not to exceed $40 million. With respect to down payments, the Commission adopts the proposal in the Notice to delegate to the Bureau the discretion to determine the down payment amount on a service-by-service basis. The Commission believes that a substantial down payment is required to ensure that licensees have the financial capability to attract the capital necessary to deploy and operate their systems and to protect against default.

(5) Merlin argues that the proposal to require auction winners to pay their second down payment regardless of a pending petition to deny would increase the defaults by small businesses. In this Order, the Commission is suspending the use of installment payments as a means of financing small business participation in the auction program for the immediate future. As a result, all auction winners, including small businesses, will be required to submit the full payment owed on their winning bids shortly after the license is ready to be granted. The Commission notes that in the Balanced Budget Act Congress granted the Commission authority to shorten the petition to deny period, and as a result, to grant licenses much more rapidly. Sections 1.2108 (b) and (c) of the rules are amended to provide that the Commission shall not grant a license less than seven days after public notice that long-form applications have been accepted for filing. In addition, the Commission amends this section to provide that in all cases the period for filing petitions to deny shall be no shorter than five days. Applications that are the subject of petitions to deny will ordinarily take longer to resolve than uncontested applications, these changes in procedure will reduce the risk of frivolous petitions being filed solely for the purpose of delay and will enhance the Commission's ability to resolve petitions expeditiously. The Commission declines to require all winning bidders to make their full payments at the same time regardless of

whether petitions to deny their applications have been filed.

(6) Finally, Merlin contends that the Commission should not adopt a cross-default rule. In this Order, the Commission concludes that it will not pursue a policy of cross-default (either within or across services) where licensees default on an installment payment. The Commission is eliminating the use of installment payments as a means of financing small business participation in the auction program for the foreseeable future. Therefore, in practice this decision will apply only to existing licensees who are currently paying for their licenses in installments.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

126. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that will be affected by our rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, there are 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were 85,006 such jurisdictions in the United States.

127. In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under Section 3 of the Small Business Act. Under the Small Business Act, a ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

128. The rules adopted in this Order will allow all entities, including existing cellular, PCS, paging, and other small communications entities, to obtain licenses in auctionable services through competitive bidding. These rules generally apply to future auctions, but, with limited exceptions, will not apply to the initial auctions of licenses in the paging, 220 MHz, 800 MHz Specialized Mobile Radio (SMR), and Local Multipoint Distribution (LMDS) services. In estimating the number of small entities who may participate in future auctions of wireless services, the Commission anticipates that current wireless services licensees are representative of future auction participants. The following is our estimate of the number of small entities who are current wireless licensees:

Estimates for Cellular Licensees

The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The size data provided by the SBA does not enable us to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, is the most recent information available. This document shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all 12 of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. The Commission assumes, for purposes of its evaluations and conclusions in this FRFA, that all of the current cellular licensees are small entities, as that term is defined by the SBA. In addition, the Commission notes that there are 1,758 cellular licenses; however, the Commission does not know the number of cellular licensees, since a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the data released in November, 1997, there are 804 companies reporting that they engage in cellular or PCS service. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 804 small cellular service carriers.

Estimates for Broadband and Narrowband PCS Licensees

Broadband PCS. The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined ''small entity'' in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. This definition of ''small entity'' in the context of broadband PCS auctions has been approved by the SBA. The Commission has auctioned broadband PCS licenses in Blocks A through F. Of the qualified bidders in the C and F block auctions, all were entrepreneurs—defined for these auctions as entities together with affiliates, having gross revenues of less than $125 million and total assets of less than $500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reauction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this FRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees, are small entities.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

Estimates for 220 MHz Radio Services

Since the Commission has not yet defined a small business with respect to 220 MHz radio services, it will utilize the SBA definition applicable to radiotelephone companies—an entity employing no more than 1,500 persons.

With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) For Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years; and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Since this definition has not yet been approved by the SBA, the Commission will utilize the SBA definition applicable to radiotelephone companies. Given that nearly all radiotelephone companies employ no more than 1,500 employees, the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

Common Carrier Paging

The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies—an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 ''paging and other mobile'' carriers reporting that they engage in these services. *See* FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997). Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small businesses under the SBA definition.

Air-Ground Radiotelephone Service

The Commission has not adopted a definition of small business specific to the Air-Ground radiotelephone service. Accordingly, the Commission will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground radiotelephone service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

Specialized Mobile Radio Licensees

The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to two tiers of firms: (1) ''Small entities,'' those with revenues of no more than $15 million in each of the three previous calendar years; and (2) ''very small entities,'' those with revenues of no more than $3 million in each of the three previous calendar years. The regulations defining ''small entity'' and ''very small entity'' in the context of 800 MHz SMR and 900 MHz SMR have been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes for purposes of this FRFA that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small and very small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses won by winning bidders, of which 38 licenses were won by small and very small entities.

Private Land Mobile Radio Licensees (PLMR)

The Commission has not developed a definition of small entities specifically applicable to PLMR licensees. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a PLMR license, therefore, these rules could potentially impact every small business in the United States if PLMR licenses are subject to auction under these new auction rules.

Aviation and Marine Radio Service

Small entities in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to a small organization, generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, there are 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were 85,006 such jurisdictions in the United States. The Commission is unable at this time to make a meaningful estimate of the number of potential small businesses under these size standards. Most applicants for individual recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of the evaluations and conclusions in this FRFA, the Commission estimates that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA.

Offshore Radiotelephone Service

This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

General Wireless Communication Service

This service was created by the Commission on July 31, 1995 by transferring 25 MHz of spectrum in the

4660–4685 MHz band from the federal government to private sector use. The Commission has announced that an auction of 875 GWCS licenses will begin on May 27, 1998. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

D. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

129. All license applicants will be subject to reporting and recordkeeping requirements to comply with the competitive bidding rules. Specifically, applicants will apply for license auctions by filing a short-form application and will file a long-form application at the conclusion of the auction. Additionally, entities seeking treatment as ''small businesses'' will need to submit information pertaining to the gross revenues of the small business applicant, its affiliates, and certain investors in the applicant.

E. Steps Taken to Minimize the Economic Impact on Small Entities and Significant Alternatives Considered

130. Among other goals, Section 309(j) directs the Commission to disseminate licenses among a wide variety of applicants, including small businesses and other designated entities. At the same time, Section 309(j) requires that the Commission ensure the development and rapid deployment of new technologies, products, and services for the benefit of the public, and recover for the public a portion of the value of the public spectrum resource made available for commercial use.

131. The Commission received numerous comments addressing the applicability of general competitive bidding rules for future auctions. Many commenters support general competitive bidding rules, but argue that the Commission should adopt service-specific rules in particular instances, such as a reauction. For example, two commenters, AICC and AAA, argue that shared channels should not be auctioned under the general competitive bidding procedures. Hughes contends that if satellite services are auctioned, the Commission must conduct a service-specific rulemaking tailored to the nature of the satellite industry. The Commission does not address the issue of the auctionability of particular services in this proceeding; however, service-specific auction rules will be adopted in the future where the general competitive bidding rules are inappropriate.

132. The Commission also received numerous comments with respect to the issue of eliminating installment payments. The Commission has reviewed all of the comments in response to the Notice of Proposed Rulemaking in this docket, as well as the comments filed in response to *Installment Public Notice* (*see* ''Wireless Telecommunications Bureau Seeks Comment on Broadband PCS C and F Block Installment Payment Issues,'' *Public Notice*, DA 97–82, 62 FR 31777 (June 11, 1997) (''*Installment Public Notice*'')) and concludes that installment payments should not be offered in auctions as a means of financing small businesses and other designated entities seeking to secure spectrum licenses. In this Order, Commission eliminates installment payments in the auction of the lower 80 and General Category channels in the 800 MHz SMR service. The Commission notes that installment payments are not the only tool available to assist small businesses, and that section 3007 of the Balanced Budget Act requires that the Commission conduct certain future auctions in a manner that ensures that all proceeds from such bidding are deposited in the U.S. Treasury not later than September 30, 2002. The Commission seeks comment in the Further Notice on offering installment payments in the future; however, section 3007 of the Balanced Budget Act may require that these auctions be conducted without offering long-term installment payments.

133. In assessing the public interest, the Commission must try to ensure that all the objectives of section 309(j) are considered. In this Order, the Commission continues the practice of defining small business standards on a service-specific basis; adopts uniform definitions of ''gross revenues'' and ''affiliate''; eliminates the use of installment payments for the 800 MHz Lower 80 channels and General Category channels services; suspends the use of installment payments for other services to be auctioned in the immediate future; provides for higher bidding credits, in lieu of installment payments, to encourage and facilitate the participation of designated entities in future auctions; and modifies the unjust enrichment rule.

134. In addition, this Order requires electronic filing of all short-form and long-form applications, beginning January 1, 1999; adopts a uniform definition of major amendments to the short-form; adopts general ownership disclosure requirements; affirms the policy of refunding upfront payments before the end of an auction to bidders that lose eligibility; adopts uniform default rules to all auctionable services; permits auction winners who have submitted a timely down payment to submit final payments 10 business days after the applicable deadline, provided the appropriate late fee is paid; adopts one 90-day non-delinquency period and one automatic 90-day grace period, and a late payment fee, similar to the rules for broadband PCS F block for licensees currently paying under installments; and clarifies that the Commission will not pursue a policy of cross-default, either within or across services, where licensees default on an installment payment.

135. Finally, this Order delegates authority to the Wireless Telecommunications Bureau to seek comment on specific mechanisms relating to auction conduct; allows for real-time bidding in simultaneous multiple-round auctions; provides that the Bureau will seek comment on and specify a minimum opening bid and/or reserve price in future auctions; adopts, for all auctionable services, the broadband PCS rules for bid withdrawal payments in the event of erroneous bids; modifies the attributable investor threshold of the anti-collusion rule to include controlling interests and/or holders of a 10 percent or greater interest in the applicant and to permit an entity that has invested in an applicant that withdraws from an auction to invest in other applicants that have applied to bid in the same markets; and permits all auction winners to begin construction at their own risk upon issuance of a public notice announcing the auction winners.

136. The Commission believes that the objectives of section 309(j) are met by the rule changes in this Order. In addition, this Order serves the public interest by simplifying regulations, eliminating unnecessary rules, increasing the efficiency of the competitive bidding process, and providing more specific guidance to auction participants while also giving them more flexibility.

F. Report to Congress

137. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of the Order and this FRFA (or a summary thereof) will be published in the **Federal Register**. *See* 5 U.S.C. 604(b). A copy of the Order and this FRFA will also be sent to the

Chief Counsel for Advocacy of the Small Business Administration.

XII. Paperwork Reduction Act Analysis

Notice of Public Information Collections Submitted to OMB for Emergency Review and Approval

Paperwork Reduction Act

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 emergency information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a 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 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, the accuracy of the Commission's burden estimate, ways to enhance the quality, utility and clarity of the information collected, and 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. The Commission is seeking emergency approval for this information collection by March 2, 1998 under the provisions of 5 CFR 1320.13.

DATES: Persons wishing to comment on this information collection should submit comments by February 25, 1998.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to JBoley@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain__t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: for additional information or copies of the information collection contact Judy Boley at (202) 418–0217 or via Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: OMB approval Number 3060–0767 Title: Auction Forms and License Transfer Disclosures: Supplement For the Second Report and Order, Order on Reconsideration and Fifth Notice of Proposed Rulemaking in CC Docket No. 92–297.

Type of Review: Revised Collection.

Respondents: Businesses or Other For-profit entities.

Number of Respondents: 44,000.

Total Annual Burden: 773,000 hours.

Total Cost to Respondents: $46,347,350.

Needs and Uses

The Commission is adopting a general rule to determine the amount of unjust enrichment payments to be assessed upon assignment, transfer, partitioning and disaggregation of licenses. The new rule, applicable to all current and future licensees, is based upon the unjust enrichment rule currently applicable to broadband PCS licensees. Therefore, transfer disclosure requirements will apply in all these license transactions.

Second, the Commission is amending its general anti-collusion rules, permitting the holder of a non-controlling attributable interest in an applicant to obtain an ownership interest in or enter into a consortium arrangement with another applicant for a license in the same geographic area provided that the original applicant has withdrawn from the auction, is no longer placing bids, and has no further eligibility. To meet the requirements of the exception, the attributable interest holder will be required to certify to the Commission that it did not communicate with the new applicant prior to the date the original applicant withdrew from the auction, and that it will not convey bidding information, or otherwise serve as a nexus between the previous and the new applicant.

These requirements are being added to the existing requirements. The number of respondents will not increase but the annual burden hours and costs will increase by an estimated 8,500 hours and $612,650.

List of Subjects

47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements.

47 CFR Part 21

Communications common carriers, Reporting and recordkeeping requirements.

47 CFR Part 90

Reporting and recordkeeping requirements.

47 CFR Part 95

Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 1, 21, 24, 27, 90 and 95 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 207, 303 and 309(j), unless otherwise noted.

2. Section 1.2101 is revised to read as follows:

§ 1.2101 Purpose.

The provisions of this subpart implement Section 309(j) of the Communications Act of 1934, as added by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66) and the Balanced Budget Act of 1997 (Pub. L. 105–33), authorizing the Commission to employ competitive bidding procedures to choose from among two or more mutually exclusive applications for certain initial licenses.

3. Section 1.2102 is amended by revising paragraphs (a) and (b) and adding a note to the section to read as follows:

§ 1.2102 Eligibility of applications for competitive bidding.

(a) Mutually exclusive initial applications are subject to competitive bidding.

(b) The following types of license applications are not subject to competitive bidding procedures:

(1) Public safety radio services, including private internal radio services used by state and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that

(i) Are used to protect the safety of life, health, or property; and

(ii) Are not commercially available to the public;

(2) Initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(3) Noncommercial educational and public broadcast stations described under 47 U.S.C. 397(6).

* * * * *

Note to § 1.2102: To determine the rules that apply to competitive bidding, specific service rules should also be consulted.

4. Section 1.2103 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 1.2103 Competitive bidding design options.

(a) The Commission will choose from one or more of the following types of auction designs for services or classes of services subject to competitive bidding:

(1) Simultaneous multiple-round auctions (using remote or on-site electronic bidding);

(2) Sequential multiple round auctions (using either oral ascending or remote and/or on-site electronic bidding);

(3) Sequential or simultaneous single-round auctions (using either sealed paper or remote and/or on-site electronic bidding); and

(4) Combinatorial (package/contingent) bidding auctions.

* * * * *

(d) The Commission may use real time bidding in all electronic auction designs.

5. Section 1.2104 is amended by revising paragraphs (d) and (g) to read as follows:

§ 1.2104 Competitive bidding mechanisms.

* * * * *

(d) *Minimum Bid Increments, Minimum Opening Bids and Maximum Bid Increments.* The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms. The Commission also may establish minimum opening bids and maximum bid increments on a service-specific basis.

* * * * *

(g) *Withdrawal, Default and Disqualification Payment.* As specified below, when the Commission conducts an auction pursuant to § 1.2103, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, or who default on payments due after an auction closes or who are disqualified.

(1) Bid withdrawal prior to close of auction. A bidder who withdraws a high bid during the course of an auction is subject to a payment equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. The bid withdrawal payment is either the difference between the net withdrawn bid and the subsequent net winning bid, or the difference between the gross withdrawn bid and the subsequent gross winning bid, whichever is less. No withdrawal payment is assessed if the subsequent winning bid exceeds the withdrawn bid. This payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(2) Default or disqualification after close of auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (g)(1) of this section plus an additional payment equal to 3 percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount. If either bid amount is subject to a bidding credit, the 3 percent credit will be calculated using the same bid amounts and basis (net or gross bids) as in the calculation of the payment in paragraph (g)(1) of this section. Thus, for example, if gross bids are used to calculate the payment in paragraph (g)(1) of this section, the 3 percent will be applied to the gross amount of the subsequent winning bid, or the gross amount of the defaulting bid, whichever is less.

* * * * *

6. Section 1.2105 is revised to read as follows:

§ 1.2105 Bidding application and certification procedures; prohibition of collusion.

(a) *Submission of Short-Form Application (FCC Form 175).* In order to be eligible to bid, an applicant must timely submit a short-form application (FCC Form 175), together with any appropriate upfront payment set forth by Public Notice. Beginning January 1, 1999, all short-form applications must be filed electronically.

(1) All short-form applications will be due:

(i) On the date(s) specified by public notice; or

(ii) In the case of application filing dates which occur automatically by operation of law (*see, e.g.,* 47 CFR 22.902), on a date specified by public notice after the Commission has reviewed the applications that have been filed on those dates and determined that mutual exclusivity exists.

(2) The short-form application must contain the following information:

(i) Identification of each license on which the applicant wishes to bid;

(ii)(A) The applicant's name, if the applicant is an individual. If the applicant is a corporation, then the short-form application will require the name and address of the corporate office and the name and title of an officer or director. If the applicant is a partnership, then the application will require the name, citizenship and address of all general partners, and, if a partner is not a natural person, then the name and title of a responsible person should be included as well. If the applicant is a trust, then the name and address of the trustee will be required. If the applicant is none of the above, then it must identify and describe itself and its principals or other responsible persons; and

(B) Applicant ownership information, as set forth in § 1.2112.

(iii) The identity of the person(s) authorized to make or withdraw a bid;

(iv) If the applicant applies as a designated entity pursuant to § 1.2110, a statement to that effect and a declaration, under penalty of perjury, that the applicant is qualified as a designated entity under § 1.2110.

(v) Certification that the applicant is legally, technically, financially and otherwise qualified pursuant to section 308(b) of the Communications Act of 1934, as amended. The Commission will accept applications certifying that a request for waiver or other relief from the requirements of section 310 is pending;

(vi) Certification that the applicant is in compliance with the foreign ownership provisions of section 310 of the Communications Act of 1934, as amended;

(vii) Certification that the applicant is and will, during the pendency of its application(s), remain in compliance with any service-specific qualifications applicable to the licenses on which the applicant intends to bid including, but not limited to, financial qualifications. The Commission may require certification in certain services that the applicant will, following grant of a license, come into compliance with certain service-specific rules, including, but not limited to, ownership eligibility limitations;

(viii) An exhibit, certified as truthful under penalty of perjury, identifying all parties with whom the applicant has entered into partnerships, joint ventures, consortia or other agreements, arrangements or understandings of any kind relating to the licenses being auctioned, including any such agreements relating to the post-auction market structure.

(ix) Certification under penalty of perjury that it has not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties other than those identified pursuant to paragraph (a)(2)(viii) regarding the amount of their bids, bidding strategies or the particular licenses on which they will or will not bid.

Note to paragraph (a): The Commission may also request applicants to submit

additional information for informational purposes to aid in its preparation of required reports to Congress.

(b) *Modification and Dismissal of Short-Form Application (FCC Form 175).* (1) Any short-form application (FCC Form 175) that does not contain all of the certifications required pursuant to this section is unacceptable for filing and cannot be corrected subsequent to the applicable filing deadline. The application will be dismissed with prejudice and the upfront payment, if paid, will be returned.

(2) The Commission will provide bidders a limited opportunity to cure defects specified herein (except for failure to sign the application and to make certifications) and to resubmit a corrected application. During the resubmission period for curing defects, a short-form application may be amended or modified to cure defects identified by the Commission or to make minor amendments or modifications. After the resubmission period has ended, a short-form application may be amended or modified to make minor changes or correct minor errors in the application. Major amendments cannot be made to a short-form application after the initial filing deadline. Major amendments include changes in ownership of the applicant that would constitute an assignment or transfer of control, changes in an applicant's size which would affect eligibility for designated entity provisions, and changes in the license service areas identified on the short-form application on which the applicant intends to bid. Minor amendments include, but are not limited to, the correction of typographical errors and other minor defects not identified as major. An application will be considered to be newly filed if it is amended by a major amendment and may not be resubmitted after applicable filing deadlines.

(3) Applicants who fail to correct defects in their applications in a timely manner as specified by public notice will have their applications dismissed with no opportunity for resubmission.

(c) *Prohibition of collusion.* (1) Except as provided in paragraphs (c)(2), (c)(3) and (c)(4) of this section, after the filing of short-form applications, all applicants are prohibited from cooperating, collaborating, discussing or disclosing in any manner the substance of their bids or bidding strategies, or discussing or negotiating settlement agreements, with other applicants until after the high bidder makes the required down payment, unless such applicants are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application pursuant to § 1.2105(a)(2)(viii).

(2) Applicants may modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided such changes do not result in a change in control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic license areas. Such changes will not be considered major modifications of the application.

(3) After the filing of short-form applications, applicants may make agreements to bid jointly for licenses, provided the parties to the agreement have not applied for licenses in any of the same geographic license areas.

(4) After the filing of short-form applications, a holder of a non-controlling attributable interest in an entity submitting a short-form application may acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with, other applicants for licenses in the same geographic license area, provided that:

(i) The attributable interest holder certifies to the Commission that it has not communicated and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has a consortium or joint bidding arrangement, and which have applied for licenses in the same geographic license area(s); and

(ii) The arrangements do not result in any change in control of an applicant; or

(iii) When an applicant has withdrawn from the auction, is no longer placing bids and has no further eligibility, a holder of a non-controlling, attributable interest in such an applicant may obtain an ownership interest in or enter into a consortium with another applicant for a license in the same geographic service area, provided that the attributable interest holder certifies to the Commission that it did not communicate with the new applicant prior to the date that the original applicant withdrew from the auction.

(5) Applicants must modify their short-form applications to reflect any changes in ownership or in membership of consortia or joint bidding arrangements.

(6) For purposes of this paragraph:

(i) The term *applicant* shall include all controlling interests in the entity submitting a short-form application to participate in an auction (FCC Form 175), as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity; and

(ii) The term *bids or bidding strategies* shall include capital calls or requests for additional funds in support of bids or bidding strategies.

Example: Company A is an applicant in area 1. Company B and Company C each own 10 percent of Company A. Company D is an applicant in area 1, area 2, and area 3. Company C is an applicant in area 3. Without violating the Commission's Rules, Company B can enter into a consortium arrangement with Company D or acquire an ownership interest in Company D if Company B certifies either (1) that it has communicated with and will communicate neither with Company A or anyone else concerning Company A's bids or bidding strategy, nor with Company C or anyone else concerning Company C's bids or bidding strategy, or (2) that it has not communicated with and will not communicate with Company D or anyone else concerning Company D's bids or bidding strategy.

7. Section 1.2107 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.2107 Submission of down payment and filing of long-form applications.

* * * * *

(b) Unless otherwise specified by public notice, within ten (10) business days after being notified that it is a high bidder on a particular license(s), a high bidder must submit to the Commission's lockbox bank such additional funds (the ''down payment'') as are necessary to bring its total deposits (not including upfront payments applied to satisfy bid withdrawal or default payments) up to twenty (20) percent of its high bid(s). (In single round sealed bid auctions conducted under § 1.2103, however, bidders may be required to submit their down payments with their bids.) Unless otherwise specified by public notice, this down payment must be made by wire transfer in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission. Down payments will be held by the Commission until the high bidder has been awarded the license and has paid the remaining balance due on the license or authorization, in which case it will not be returned, or until the winning bidder is found unqualified to

be a licensee or has defaulted, in which case it will be returned, less applicable payments. No interest on any down payment will be paid to the bidders.

(c) A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the ''long-form application'') pursuant to the rules governing the service in which the applicant is the high bidder. Notwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, high bidders need not submit an additional application filing fee with their long-form applications. Specific procedures for filing applications will be set out by Public Notice. Beginning January 1, 1999, all long-form applications must be filed electronically. An applicant that fails to submit the required long-form application under this paragraph and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and will be subject to the payments set forth in § 1.2104.

* * * * *

8. Section 1.2108 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.2108 Procedures for filing petitions to deny against long-form applications.

* * * * *

(b) Within a period specified by Public Notice, and after the Commission by public notice announces that long-form applications have been accepted for filing, petitions to deny such applications may be filed. In all cases, the period for filing petitions to deny shall be no shorter than five (5) days. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. The time for filing such oppositions shall be at least five (5) days from the filing date for petitions to deny, and the time for filing replies shall be at least five (5) days from the filing date for oppositions. The Commission may grant a license based on any long-form application that has been accepted for filing. The Commission shall in no case grant licenses earlier than seven (7) days following issuance of a public notice announcing long-form applications have been accepted for filing.

* * * * *

9. Section 1.2109 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 1.2109 License grant, denial, default, and disqualification.

(a) Unless otherwise specified by public notice, auction winners are required to pay the balance of their winning bids in a lump sum within ten (10) business days following the release of a public notice establishing the payment deadline. If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five percent of the amount due. When a winning bidder fails to pay the balance of its winning bid by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. Licenses will be awarded upon the full and timely payment of winning bids and any applicable late fees.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in § 1.2104(g)(2). In such event, the Commission, at its discretion, may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. The down payment obligations set forth in § 1.2107(b) will apply.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted and will be liable for the payment set forth in § 1.2104(g)(2). In such event, the Commission may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids.

* * * * *

10. Section 1.2110 is revised to read as follows:

§ 1.2110 Designated entities.

(a) Designated entities are small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies.

(b) Definitions. (1) Small businesses. The Commission will establish the definition of a small business on a service-specific basis, taking into consideration the characteristics and capital requirements of the particular service.

(2) Businesses owned by members of minority groups and/or women. Unless otherwise provided in rules governing specific services, a business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens control the applicant, have at least 50.1 percent equity ownership and, in the case of a corporate applicant, a 50.1 percent voting interest. For applicants that are partnerships, every general partner either must be a minority and/or woman (or minorities and/or women) who are U.S. citizens and who individually or together own at least 50.1 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully-diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis. The term minority includes individuals of African American, Hispanic-surnamed, American Eskimo, Aleut, American Indian and Asian American extraction.

(3) Rural telephone companies. A rural telephone company is any local exchange carrier operating entity to the extent that such entity—

(i) provides common carrier service to any local exchange carrier study area that does not include either

(A) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census, or

(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(ii) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(iii) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(iv) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

(4) Affiliate. (i) An individual or entity is an affiliate of an applicant or of a person holding an attributable interest in an applicant if such individual or entity—

(A) Directly or indirectly controls or has the power to control the applicant, or

(B) Is directly or indirectly controlled by the applicant, or

(C) Is directly or indirectly controlled by a third party or parties that also controls or has the power to control the applicant, or

(D) Has an ''identity of interest'' with the applicant.

(ii) Nature of control in determining affiliation.

(A) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. An applicant owning 50 percent of the voting stock of another concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders in the other entity. Affiliation exists when the applicant has the power to control a concern while at the same time another person, or persons, are in control of the concern at the will of the party or parties with the power to control.

(B) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(C) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

Example. In a corporation where the officers and directors own various size blocks of stock totaling 40 percent of the corporation's voting stock, but no officer or director has a block sufficient to give him or her control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control. If persons with such management control of the other entity are persons with attributable interests in the applicant, the other entity will be deemed an affiliate of the applicant.

(iii) *Identity of interest between and among persons.* Affiliation can arise between or among two or more persons with an identity of interest, such as members of the same family or persons with common investments. In determining if the applicant controls or has the power to control a concern, persons with an identity of interest will be treated as though they were one person.

Example. Two shareholders in Corporation Y each have attributable interests in the same PCS application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. The two shareholders with these common investments (or identity in interest) are treated as though they are one person and Corporation Y would be deemed an affiliate of the applicant.

(A) *Spousal affiliation.* Both spouses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States. In calculating their net worth, investors who are legally separated must include their share of interests in property held jointly with a spouse.

(B) *Kinship affiliation.* Immediate family members will be presumed to own or control or have the power to control interests owned or controlled by other immediate family members. In this context ''immediate family member'' means father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father or -mother, step-brother or -sister, step-son or -daughter, half brother or sister. This presumption may be rebutted by showing that the family members are estranged, the family ties are remote, or the family members are not closely involved with each other in business matters.

Example. A owns a controlling interest in Corporation X. A's sister-in-law, B, has an attributable interest in a PCS application. Because A and B have a presumptive kinship affiliation, A's interest in Corporation Y is attributable to B, and thus to the applicant, unless B rebuts the presumption with the necessary showing.

(iv) *Affiliation through stock ownership.* (A) An applicant is presumed to control or have the power to control a concern if he or she owns or controls or has the power to control 50 percent or more of its voting stock.

(B) An applicant is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other outstanding block of stock.

(C) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each one of these persons individually controls or has the power to control the concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(v) *Affiliation arising under stock options, convertible debentures, and agreements to merge.* Stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

Example 1. If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in a PCS application, the situation is treated as though company B had exercised its rights and had come owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

Example 2. If a large company, BigCo, holds 70% (70 of 100 outstanding shares) of the voting stock of company A, who holds an attributable interest in a PCS application, and gives a third party, SmallCo, an option to purchase 50 of the 70 shares owned by BigCo, BigCo will be deemed to be an affiliate of company A, and thus the applicant, until SmallCo actually exercises its option to purchase such shares. In order to prevent BigCo from circumventing the intent of the rule which requires such options to be considered on a fully diluted basis, the option is not considered to have present effect in this case.

Example 3. If company A has entered into an agreement to merge with company B in

the future, the situation is treated as though the merger has taken place.

(vi) *Affiliation under voting trusts.* (A) Stock interests held in trust shall be deemed controlled by any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will.

(B) If a trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be deemed controlled by the grantor or beneficiary, as appropriate.

(C) If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may meet the Commission's size standards, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction.

(vii) *Affiliation through common management.* Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another entity.

(viii) *Affiliation through common facilities.* Affiliation generally arises where one concern shares office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated, and through these sharing arrangements one concern has control, or potential control, of the other concern.

(ix) *Affiliation through contractual relationships.* Affiliation generally arises where one concern is dependent upon another concern for contracts and business to such a degree that one concern has control, or potential control, of the other concern.

(x) *Affiliation under joint venture arrangements.* (A) A joint venture for size determination purposes is an association of concerns and/or individuals, with interests in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(B) The parties to a joint venture are considered to be affiliated with each other. Nothing in this subsection shall be construed to define a small business consortium, for purposes of determining status as a designated entity, as a joint venture under attribution standards provided in this section.

(xi) *Exclusion from affiliation coverage.* For purposes of this section, Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), or entities owned and controlled by such tribes or corporations, are not considered affiliates of an applicant (or licensee) that is owned and controlled by such tribes, corporations or entities, and that otherwise complies with the requirements of this section, except that gross revenues derived from gaming activities conducted by affiliate entities pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) will be counted in determining such applicant's (or licensee's) compliance with the financial requirements of this section, unless such applicant establishes that it will not receive a substantial unfair competitive advantage because significant legal constraints restrict the applicant's ability to access such gross revenues.

(c) The Commission may set aside specific licenses for which only eligible designated entities, as specified by the Commission, may bid.

(d) The Commission may permit partitioning of service areas in particular services for eligible designated entities.

(e) *Bidding credits.* (1) The Commission may award bidding credits (*i.e.,* payment discounts) to eligible designated entities. Competitive bidding rules applicable to individual services will specify the designated entities eligible for bidding credits, the licenses for which bidding credits are available, the amounts of bidding credits and other procedures.

(2) *Size of bidding credits.* A winning bidder that qualifies as a small business or a consortium of small businesses may use the following bidding credits corresponding to their respective average gross revenues for the preceding 3 years:

(i) Businesses with average gross revenues for the preceding years, 3 years not exceeding $3 million are eligible for bidding credits of 35 percent;

(ii) Businesses with average gross revenues for the preceding years, 3 years not exceeding $15 million are eligible for bidding credits of 25 percent; and

(iii) Businesses with average gross revenues for the preceding years, 3 years not exceeding $40 million are eligible for bidding credits of 15 percent.

(f) *Installment payments.* The Commission may permit small businesses (including small businesses owned by women, minorities, or rural telephone companies that qualify as small businesses) and other entities determined to be eligible on a service-specific basis, which are high bidders for licenses specified by the Commission, to pay the full amount of their high bids in installments over the term of their licenses pursuant to the following:

(1) Unless otherwise specified by public notice, each eligible applicant paying for its license(s) on an installment basis must deposit by wire transfer in the manner specified in § 1.2107(b) sufficient additional funds as are necessary to bring its total deposits to ten (10) percent of its winning bid(s) within ten (10) days after the Commission has declared it the winning bidder and closed the bidding. Failure to remit the required payment will make the bidder liable to pay a default payment pursuant to § 1.2104(g)(2).

(2) Within ten (10) days of the conditional grant of the license application of a winning bidder eligible for installment payments, the licensee shall pay another ten (10) percent of the high bid, thereby commencing the eligible licensee's installment payment plan. Failure to remit the required payment will make the bidder liable to pay default payments pursuant to § 1.2104(g)(2).

(3) Upon grant of the license, the Commission will notify each eligible licensee of the terms of its installment payment plan and that it must execute a promissory note and security agreement as a condition of the installment payment plan. Unless other terms are specified in the rules of particular services, such plans will:

(i) Impose interest based on the rate of U.S. Treasury obligations (with maturities closest to the duration of the license term) at the time of licensing;

(ii) Allow installment payments for the full license term;

(iii) Begin with interest-only payments for the first two years; and

(iv) Amortize principal and interest over the remaining term of the license.

(4) A license granted to an eligible entity that elects installment payments shall be conditioned upon the full and timely performance of the licensee's payment obligations under the installment plan.

(i) Any licensee that fails to submit payment on an installment obligation will automatically have an additional ninety (90) days in which to submit its required payment without being considered delinquent. Any licensee making its required payment during this period will be assessed a late payment fee equal to five percent (5%) of the amount of the past due payment. Late fees assessed under this paragraph will accrue on the next business day following the payment due date. Payments made at the close of any grace period will first be applied to satisfy any lender advances as required under each licensee's ''Note and Security Agreement.'' Afterwards, payments will be applied in the following order: late charges, interest charges, principal payments.

(ii) If any licensee fails to make the required payment at the close of the 90-day period set forth in paragraph (i) of this section, the licensee will automatically be provided with a subsequent 90-day grace period. Any licensee making a required payment during this subsequent period will be assessed a late payment fee equal to ten percent (10%) of the amount of the past due payment. Licensees shall not be required to submit any form of request in order to take advantage of the initial 90-day non-delinquency period and subsequent automatic 90-day grace period. All licensees that avail themselves of the automatic grace period must pay the required late fee(s), all interest accrued during the non-delinquency and grace periods, and the appropriate scheduled payment with the first payment made following the conclusion of the grace period.

(iii) If an eligible entity making installment payments is more than one hundred and eighty (180) days delinquent in any payment, it shall be in default.

(iv) Any eligible entity that submits an installment payment after the due date but fails to pay any late fee, interest or principal at the close of the 90-day non-delinquency period and subsequent automatic grace period will be declared in default, its license will automatically cancel, and will be subject to debt collection procedures.

(g) The Commission may establish different upfront payment requirements for categories of designated entities in competitive bidding rules of particular auctionable services.

(h) The Commission may offer designated entities a combination of the available preferences or additional preferences.

(i) Designated entities must describe on their long-form applications how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long-form applications all agreements that effect designated entity status, such as partnership agreements, shareholder agreements, management agreements and other agreements, including oral agreements, which establish that the designated entity will have both *de facto* and *de jure* control of the entity. Such information must be maintained at the licensees' facilities or by their designated agents for the term of the license in order to enable the Commission to audit designated entity eligibility on an ongoing basis.

(j) The Commission may, on a service-specific basis, permit consortia, each member of which individually meets the eligibility requirements, to qualify for any designated entity provisions.

(k) The Commission may, on a service-specific basis, permit publicly-traded companies that are owned by members of minority groups or women to qualify for any designated entity provisions.

(l) Audits. (1) Applicants and licensees claiming eligibility under this section shall be subject to audits by the Commission, using in-house and contract resources. Selection for audit may be random, on information, or on the basis of other factors.

(2) Consent to such audits is part of the certification included in the short-form application (FCC Form 175). Such consent shall include consent to the audit of the applicant's or licensee's books, documents and other material (including accounting procedures and practices) regardless of form or type, sufficient to confirm that such applicant's or licensee's representations are, and remain, accurate. Such consent shall include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business, or keeping records regarding FCC-licensed service and shall also include consent to the interview of principals, employees, customers and suppliers of the applicant or licensee.

(m) *Gross revenues.* Gross revenues shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.*, cost of goods sold), as evidenced by audited financial statements for the relevant number of most recently completed calendar years or, if audited financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form (FCC Form 175). If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate. When an applicant does not otherwise use audited financial statements, its gross revenues may be certified by its chief financial officer or its equivalent and must be prepared in accordance with Generally Accepted Accounting Principles.

11. Section 1.2111 is amended by revising paragraphs (c) and (d) and adding paragraph (e) to read as follows:

§ 1.2111 Assignment or transfer of control: unjust enrichment.

* * * * *

(c) *Unjust enrichment payment: installment financing.* (1) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval.

(2) If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval. A licensee's (or other attributable entity's) increased gross revenues or increased total assets due to nonattributable equity investments, debt financing, revenue from operations or other investments, business development or expanded service shall not be considered to result in the licensee losing eligibility for installment payments.

(3) If a licensee seeks to make any change in ownership that would result in the licensee qualifying for a less favorable installment plan under this section, the licensee shall seek

Commission approval and must adjust its payment plan to reflect its new eligibility status. A licensee may not switch its payment plan to a more favorable plan.

(d) *Unjust enrichment payment: bidding credits.* (1) A licensee that utilizes a bidding credit, and that during the initial term seeks to assign or transfer control of a license to an entity that does not meet the eligibility criteria for a bidding credit, will be required to reimburse the U.S. Government for the amount of the bidding credit, plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license was granted, as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to assign or transfer control of a license to an entity that is eligible for a lower bidding credit, the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify, plus interest based on the rate for ten year U.S. treasury obligations applicable on the date the license is granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to make any ownership change that would result in the licensee losing eligibility for a bidding credit (or qualifying for a lower bidding credit), the amount of the bidding credit (or the difference between the bidding credit originally obtained and the bidding credit for which the restructured licensee would qualify), plus interest based on the rate for ten year U.S. treasury obligations applicable on the date the license is granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer.

(2) Payment schedule. (i) The amount of payments made pursuant to paragraph (d)(1) of this section will be reduced over time as follows:

(A) A transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit (or in the case of very small businesses transferring to small businesses, 100 percent of the difference between the bidding credit received by the former and the bidding credit for which the latter is eligible);

(B) A transfer in year 3 of the license term will result in a forfeiture of 75 percent of the value of the bidding credit;

(C) A transfer in year 4 of the license term will result in a forfeiture of 50 percent of the value of the bidding credit;

(D) A transfer in year 5 of the license term will result in a forfeiture of 25 percent of the value of the bidding credit; and

(E) for a transfer in year 6 or thereafter, there will be no payment.

(ii) These payments will have to be paid to the United States Treasury as a condition of approval of the assignment, transfer, or ownership change.

(e) *Unjust enrichment: partitioning and disaggregation.* (1) *Installment payments.* Licensees making installment payments, that partition their licenses or disaggregate their spectrum to entities not meeting the eligibility standards for installment payments, will be subject to the provisions concerning unjust enrichment as set forth in this section.

(2) *Bidding credits.* Licensees that received a bidding credit that partition their licenses or disaggregate their spectrum to entities not meeting the eligibility standards for such a bidding credit, will be subject to the provisions concerning unjust enrichment as set forth in this section.

(3) *Apportioning unjust enrichment payments.* Unjust enrichment payments for partitioned license areas shall be calculated based upon the ratio of the population of the partitioned license area to the overall population of the license area and by utilizing the most recent census data. Unjust enrichment payments for disaggregated spectrum shall be calculated based upon the ratio of the amount of spectrum disaggregated to the amount of spectrum held by the licensee.

12. Section 1.2112 is added to read as follows:

§ 1.2112 Ownership disclosure requirements for short- and long-form applications.

(a) Each application for a license or authorization or for consent to assign or transfer control of a license or authorization shall disclose fully the real party or parties in interest and must include in an exhibit the following information:

(1) A list of any FCC-regulated business 10 percent or more of whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, attributable stockholder or key management personnel of the applicant. This list must include a description of each such business's principal business and a description of each such business's relationship to the applicant;

(2) A list of any party holding a 10 percent or greater interest in the applicant, including the specific amount of the interest;

(3) A list of any party holding a 10 percent or greater interest in any entity holding or applying for any FCC-regulated business in which a 10 percent or more interest is held by another party which holds a 10 percent or more interest in the applicant (*e.g.*, If company A owns 10 percent of Company B (the applicant) and 10 percent of Company C then Companies A and C must be listed on Company B's application;

(4) A list of the names, addresses, and citizenship of any party holding 10 percent or more of each class of stock, warrants, options or debt securities together with the amount and percentage held;

(5) A list of the names, addresses, and citizenship of all controlling interests of the applicants, as set forth in § 1.2110;

(6) In the case of a general partnerships, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

(7) In the case of a limited partnerships, the name, address and citizenship of each limited partner whose interest in the applicant is equal to or greater than 10 percent (as calculated according to the percentage of equity paid in and the percentage of distribution of profits and losses);

(8) In the case of a limited liability corporation, the name, address and citizenship of each of its members; and

(9) A list of all parties holding indirect ownership interests in the applicant, as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.

(b) In addition to the information required under paragraph (a) of this section, each applicant for a license or authorization claiming status as a small business shall, as an exhibit to its long-form application:

(1) Disclose separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant and its affiliates, the applicant's attributable investors, affiliates of its attributable investors, and, if a consortium of small businesses, the members comprising the consortium;

(2) List and summarize all agreements or instruments (with appropriate references to specific provisions in the

text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* and *de jure* control; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written; and

(3) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees.

13. Section 1.2113 is added to read as follows:

§ 1.2113 Construction prior to grant of application.

Subject to the provisions of this section, applicants for licenses awarded by competitive bidding may construct facilities to provide service prior to grant of their applications, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities for licenses subject to competitive bidding.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility upon release of the Public Notice listing the post-auction long-form application for that facility as acceptable for filing.

(b) *Notification to stop.* If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

(1) Applications that are not granted;

(2) Errors or delays in issuing public notices;

(3) Having to alter, relocate or dismantle the facility; or

(4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or FCC rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

(1) The application does not include a request for a waiver of one or more FCC rules;

(2) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325;

(3) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with §§ 1.1301 through 1.1319;

(4) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required; and

(5) Any service-specific restrictions not listed herein.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

14. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554, unless otherwise noted.

15. Section 21.959 is amended by revising paragraph (a)(2) to read as follows:

§ 21.959 Withdrawal, default, and disqualification.

* * * * *

(a) * * *

(2) *Default or disqualification after close of auction. See* § 1.2104 (g)(2) of this chapter.

* * * * *

16. Section 21.960 is amended by revising paragraphs (b)(4) and (d)(1) to read as follows:

§ 21.960 Designated entity provisions for MDS.

* * * * *

(b) * * *

(4) Conditions and obligations. *See* § 1.2110(f)(4) of this chapter.

* * * * *

(d) * * *

(1) Unjust enrichment. *See* § 1.2111 of this chapter.

* * * * *

PART 24—PERSONAL COMMUNICATIONS SERVICES

17. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. Sections 154, 301, 302, 303, and 332, unless otherwise noted.

18. Section 24.304 is amended by revising paragraph (a)(2) to read as follows:

§ 24.304 Withdrawal, default and disqualification penalties.

(a) * * *

(2) *Default or disqualification after close of auction. See* § 1.2104(g)(2) of this chapter.

* * * * *

19. Section 24.309 is amended by revising paragraphs (b) and (f) to read as follows:

§ 24.309 Designated entities

* * * * *

(b) Designated entities will be eligible for certain special narrowband PCS provisions as follows:

(1) *Installment payments.* (i) Small businesses, including small businesses owned by members of minority groups and women, will be eligible to pay the full amount of their winning bids on any regional, MTA or BTA license in installments over the term of the license pursuant to the terms set forth in § 1.2110(g) of this chapter.

(ii) Businesses owned by members of minority groups and women that are winning bidders for the regional licenses indicated by an (**) in § 24.129 may pay the full amount of their winning bids (less the applicable bidding credit and down payment) in installments with

(A) Interest imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent;

(B) Interest-only payments for the first two years; and

(C) Principal and interest payments amortized over the remaining eight years of the license.

(2) *Bidding credits.* Businesses owned by member of minority groups and women, including small businesses owned by members of minority groups and women, will be eligible for a twenty-five (25) percent bidding credit when bidding on the following licenses:

(i) The nationwide licenses on Channel 5, Channel 8 and Channel 11; and

(ii) All MTA licenses on Channel 19, Channel 22, Channel 24; and

(iii) All BTA licenses on Channel 26. This bidding credit will reduce by 25 percent the bid price that businesses owned by members of minority groups

and women will be required to pay to obtain a license. Businesses owned by women and/or minorities, including small businesses owned by women and/or minorities will be eligible for a forty (40) percent bidding credit when bidding on all regional licenses on Channel 13 and Channel 17. In § 24.129, the licenses that will be eligible for 25 percent bidding credits are indicated by an (*); the licenses that will be eligible for 40 percent bidding credits are indicated by an (**).

* * * * *

(f) *Unjust enrichment.* Designated entities using installment payments, bidding credits or tax certificates to obtain a narrowband PCS license will be subject to the unjust enrichment provisions contained in § 1.2111 of this chapter.

20. Section 24.704 is amended by revising paragraph (a)(2) to read as follows:

§ 24.704 Withdrawal, default and disqualification penalties.

(a) * * *

(2) *Default or disqualification after close of auction. See* § 1.2104(g)(2) of this chapter.

* * * * *

21. Section 24.711 is amended by revising paragraphs (b) and (c) to read as follows:

§ 24.711 Upfront payments, down payments and installment payments for licenses for frequency Block C.

* * * * *

(b) *Installment payments.* Each eligible licensee of frequency Block C or F may pay the remaining 90 percent of the net auction price for the license in installment payments pursuant to § 1.2110(g) of this chapter and under the following terms:

(1) For an eligible licensee with *gross revenues* exceeding $75 million (calculated in accordance with § 24.709(a)(2) and (b)) in each of the two preceding years (calculated in accordance with § 24.720(f)), interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 3.5 percent; payments shall include both principal and interest amortized over the term of the license.

(2) For an eligible licensee with *gross revenues* not exceeding $75 million (calculated in accordance with § 24.709(a)(2) and (b)) in each of the two preceding years, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first year and payments of interest and principal amortized over the remaining nine years of the license term.

(3) For an eligible licensee that qualifies as a Small business or as a consortium of small businesses, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first two years and payments of interest and principal amortized over the remaining eight years of the license term.

(4) For an eligible licensee that qualifies as a business owned by members of minority groups and/or women, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted; payments shall include interest only for the first three years and payments of interest and principal amortized over the remaining seven years of the license term.

(5) For an eligible licensee that qualifies as a small business owned by members of minority groups and/or women or as a consortium of small business owned by members of minority groups and/or women, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted; payments shall include interest only for the first six years and payments of interest and principal amortized over the remaining four years of the license term.

(c) *Unjust enrichment. See* § 1.2111 of this chapter.

22. Section 24.712 is amended by adding paragraph (c) to read as follows:

§ 24.712 Bidding credits for licenses for frequency Block C.

* * * * *

(c) *Unjust enrichment. See* § 1.2111 of this chapter.

23. Section 24.716 is amended by revising paragraph (c) and (d) to read as follows:

§ 24.716 Upfront payments, down payments, and installment payments for licenses for frequency Block F.

* * * * *

(c) *Late installment payments. See* § 1.2110(f)(4) of this chapter.

(d) *Unjust enrichment. See* § 1.2111 of this chapter.

24. Section 24.717 is amended by revising paragraph (c) to read as follows:

§ 24. 717 Bidding credits for licenses for frequency Block F.

* * * * *

(c) *Unjust enrichment. See* § 1.2111 of this chapter.

PART 27—WIRELESS COMMUNICATIONS SERVICE

25. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

26. Section 27.203 is amended by revising paragraph (b) to read as follows:

§ 27.203 Withdrawal, default and disqualification payments.

* * * * *

(b) *Default or disqualification after close of auction. See* § 1.2104(g)(2) of this chapter.

27. Section 27.209 is amended by revising paragraph (d) to read as follows:

§ 27.209 Designated entities; bidding credits; unjust enrichment.

* * * * *

(d) *Unjust enrichment. See* § 1.2111 of this chapter.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

28. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309 and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 332, unless otherwise noted.

29. Section 90.805 is amended by revising paragraph (c) to read as follows:

§ 90.805 Withdrawal, default and disqualification payments.

* * * * *

(c) *Default or disqualification after close of auction. See* § 1.2104 (g)(2) of this chapter.

30. Section 90.812 is amended by revising paragraphs (a) and (b) to read as follows:

§ 90.812 Installment payments for licensees won by small businesses.

(a) *Installment payments. See* § 1.2110(f)(4) of this chapter.

(b) *Unjust enrichment. See* § 1.2111(c) of this chapter.

PART 95—PERSONAL RADIO SERVICES

31. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

32. Section 95.816 is amended by revising paragraphs (c)(6) and (e) to read as follows:

§ 95.816 Competitive bidding proceedings.

* * * * *

(c) * * *

(6) Default or disqualification. *See* § 1.2104 (g)(2) of this chapter.

* * * * *

(e) *Unjust enrichment. See* § 1.2111 of this chapter.

* * * * *

[FR Doc. 98–823 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–183; RM–9119]

Radio Broadcasting Services; Lindsborg, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Michael D. Law, allots Channel 269C3 to Lindsborg, Kansas, as the community's second local FM service. *See* 62 FR 45785, August 29, 1997. Channel 269C3 can be allotted to Lindsborg in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.4 miles) north in order to avoid short-spacing conflicts with the licensed operations of Station KFDI–FM, Channel 267C, Wichita, Kansas; Station KVOE–FM, Channel 269A, Emporia, Kansas; and Station KZSN–FM, Channel 271C, Hutchinson, Kansas. The coordinates for Channel 269C3 at Lindsborg are 38–39–03 NL and 97–42–12 WL. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 23, 1998. A filing window for Channel 269C3 at Lindsborg, Kansas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–183, adopted December 17, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Channel 269C3 at Lindsborg.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1030 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–184; RM–9120]

Radio Broadcasting Services; New Augusta, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Community Broadcasting Company, allots Channel 269A to New Augusta, Mississippi, as the community's first local aural transmission service. *See* 62 FR 45784, August 29, 1997. Channel 269A can be allotted to New Augusta, Mississippi, in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.8 kilometers (4.9 miles) northwest in order to avoid a short-spacing conflict with the site specified in Station WTKX–FM's construction permit for Channel 268C, Pensacola, Florida. The coordinates for Channel 269A at New Augusta are 31–13–41 NL and 89–06–47 WL. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 23, 1998. A filing window for Channel 269A at New Augusta, Mississippi will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–184, adopted December 17, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding New Augusta, Channel 269A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1029 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–65; RM–9002]

Radio Broadcasting Services; Chewelah, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of LifeTalk Broadcasting Association, allots Channel *274C3 at Chewelah, Washington, and reserves the channel for noncommercial educational use as the community's first local aural transmission service. *See* 62 FR 7981, February 21, 1997. Channel *274C3 can be allotted to Chewelah in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.8 kilometers (13.6

miles) southwest to avoid a short-spacing to the vacant allotment site for Channel 275B, Creston, British Columbia. The coordinates for Channel *274C3 at Chewelah are North Latitude 48–08–45 and West Longitude 117–56–09. Since Chewelah is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 23, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–65, adopted December 24, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Chewelah, Channel *274C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1028 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–83; RM–8948]

Radio Broadcasting Services; Westport, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Chehalis Broadcasting Company, allots Channel 267A at Westport, Washington, as the community's first local aural transmission service. *See* 62 FR 10011, March 5, 1997. Channel 267A can be allotted to Westport in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 267A at Westport are North Latitude 46–53–24 and West Longitude 124–06–06. Since Westport is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 23, 1998. A filing window for Channel 267A at Westport, Washington, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–83, adopted December 17, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Westport, Channel 267A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1027 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–44; RM–8974]

Radio Broadcasting Services; Mills, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain Tower Broadcasting, allots Channel 288A at Mills, Wyoming, as the community's first local aural transmission service. *See* 62 FR 5791, February 7, 1997. Channel 288A can be allotted to Mills in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 288A at Mills are North Latitude 42–50–24 and West Longitude 106–22–06. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 23, 1998. A filing window for Channel 288A at Mills, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–44, adopted December 17, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Mills, Channel 288A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1026 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 63, No. 10
Thursday, January 15, 1998

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

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN No. 0580–AA54

General Regulations and Standards for Certain Agricultural Commodities

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing to amend the regulations under the Agricultural Marketing Act (Act) of 1946 to allow GIPSA and State cooperators to use contractors to perform specified inspection services. GIPSA has determined that private firms, institutions, and individuals, working under contract with GIPSA field offices and State cooperators may be able to perform some inspection services, at certain locations, more effectively or at less cost than if those services were performed by Department or State employees. Consequently, GIPSA is proposing to amend the regulations to allow GIPSA and State cooperators to contract for service work and to license individual contractors and those employed by contractors.

DATES: Comments must be received on or before March 16, 1998.

ADDRESSES: Written comments must be submitted to George Wollam, USDA, GIPSA, ART, Stop 3649, Washington, DC 20250–3649; FAX (202) 720–4628. All comments received will be made available for public inspection in Room 0623, USDA South Building, 1400 Independence Avenue, SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address same as above, telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule or application of its provisions.

Effects on Small Entities

GIPSA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). GIPSA believes that allowing contracts with private firms, institutions, individuals, and others for inspection work will foster more cost-effective operations. Many users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act. For example, the primary user of pulse inspection services is the U.S. government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. The proposed change would allow GIPSA and the 13 State cooperators to use contractors to perform specified inspection services. Currently, contract samplers are used by both GIPSA and State cooperators which has resulted in reduced operating expenses and, in many cases, quicker services to applicants for services. It is expected that this action would result in similar benefits.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements in part 868 have been approved previously by OMB and assigned OMB No. 0580–0013.

Background

GIPSA is committed to carrying out its statutory and regulatory mandates in a cost effective manner that best serves the public interest. Concurrently, GIPSA is constantly seeking ways to reduce the cost of providing official services, without reducing the quality of that service. One measure that has proven effective is the use of contract samplers at outlying service points or during periods of peak demand. By judiciously using contract samplers, GIPSA field offices and State cooperators have been able to reduce their operating expenses and, in many cases, provide quicker service to their applicants for services. GIPSA believes that contract inspections may be equally beneficial in certain situations; e.g., providing quality inspections on an intermittent basis at geographically isolated service points. Additionally, GIPSA feels that allowing GIPSA and State cooperators to contract with private firms, institutions, individuals, and others for inspection work will foster more cost-effective operations, which in turn, may lessen the need for future fee increases.

The Act of 1946, as amended, provides authority to the Secretary of Agriculture to enter into contracts and agreements with States and agencies of States, private firms, institutions, and individuals for the purpose of performing specified inspection services. According to section 868.1(b)(23) of the regulations, such services may include ''applying such tests and making examinations of a commodity and records by official personnel as may be necessary to determine the kind, class, grade, other quality designation, the quantity, or condition of commodity; performing condition of container, carrier stowage examination; and any other services as related to commodities, as necessary; and issuing an inspection certificate.'' However, section 868.80(a)(1) of the regulations states that only persons employed by a cooperator may be licensed to inspect commodities or to perform related services. Consequently, GIPSA is proposing to amend the regulations to provide for GIPSA and

State cooperators to contract for quality (grading) inspection services and to license individual contractors and those employed by a contractor.

Proposed Action

To provide for more responsive, cost-effective inspection services under the Act of 1946, GIPSA is proposing to revise:

1. Section 868.1(b)(13) to expand the definition of contractor to provide for cooperators to use contractors for specified services.

2. Section 868.80(a)(1) to add provisions for licensing individual contractors and employees of contractors.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

For reasons set forth in the preamble, 7 CFR Part 868 is proposed to be amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for Part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Section 868.1(b)(13) is revised to read as follows:

§ 868.1 Meaning of terms.

* * * * *

(b) * * *

(13) *Contractor.* Any person who enters into a contract with the Service or with a cooperator to perform specified inspection services.

* * * * *

2. Section 868.80(a)(1) is revised to read as follows:

§ 868.80 Who may be licensed.

(a) *Inspectors.* * * *

(1) Is employed by a cooperator, is a contractor, or is employed by a contractor.

* * * * *

Dated: January 9, 1998.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 98–920 Filed 1–14–98; 8:45 am]

BILLING CODE 3410–EN–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–201; RM–9127]

Radio Broadcasting Services; Crested Butte, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a petition filed on behalf of Crested Butte Broadcasting Company, which requested the allotment of Channel 293A to Crested Butte, Colorado, as that community's first local commercial FM transmission service, based upon the lack of an expression of interest in pursuing the proposal by the petitioner or any other party. See 62 FR 49189, September 19, 1997. With this action, the proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–201, adopted December 22, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1025 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–252, RM–9206]

Radio Broadcasting Services; Columbia City, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Max Media proposing the allotment of Channel 243A to Columbia City, Florida, as that community's first local broadcast service. The channel can be allotted to Columbia City without a site restriction at coordinates 30–04–12 and 82–41–42.

DATES: Comments must be filed on or before March 2, 1998, and reply comments on or before March 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Donald E. Martin, P.O. Box 19351, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–252, adopted December 17, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1024 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–251, RM–9199]

Radio Broadcasting Services; Breckenridge and Graford, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Big Country Radio, Inc., licensee of Station KLXK(FM), Breckenridge, Texas, requesting the substitution of Channel 228C3 for Channel 228C2 at Breckenridge; the reallotment of Channel 228C3 from Breckenridge to Graford; and, the modification of Station KLXK(FM) authorization to specify Graford as its community of license. Channel 228C3 can be allotted to Graford in compliance with the Commission's minimum distance separation requirements with a site restriction 21.7 kilometers (13.5 miles) northwest. The coordinates for Channel 228C3 at Graford are 33–06–51 NL and 98–19–57 WL. In accordance with the provision of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 228C3 at Graford.

DATES: Comments must be filed on or before March 2, 1998, and reply comments on or before March 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ann Bavender, Fletcher, Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th Street, Rosslyn, Virginia 22209–3801 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–251, adopted December 17, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1023 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–253, RM–9198]

Radio Broadcasting Services; Daingerfield and Ore City, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by OARA, Inc., licensee of Station KWSK(FM), Channel 295A, Daingerfield, Texas, requesting the substitution of Channel 295C3 for Channel 295A; the reallotment of Channel 295C3 from Daingerfield to Ore City; and, the modification of Station KWSK(FM)'s license to specify Ore City as its community of license. Channel 295C3 can be allotted to Ore City in compliance with the Commission's minimum distance separation requirements with a site restriction to accommodate OARA's desired site. The coordinates for Channel 295C3 at Ore City are 32–52–55 NL and 94–49–18 WL. In accordance with the provision of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 295C3 at Ore City.

DATES: Comments must be filed on or before March 2, 1998, and reply comments on or before March 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Riley, Fletcher, Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th Street, Rosslyn, Virginia 22209–3801 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–253, adopted December 24, 1997, and released January 9, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–1022 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 63, No. 10
Thursday, January 15, 1998

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

Agricultural Marketing Service

United States Standards for Grades of Canned Beets, United States Standards for Grades of Canned Carrots and the United States Standards for Grades of Canned White Potatoes

[FV–97–329N]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is soliciting comments on its proposal to change the United States Standards for Grades of Canned Beets, the United States Standards for Grades of Canned Carrots, and the United States Standards for Grades of Canned White Potatoes (canned root crop vegetables). Specifically, USDA is proposing to adjust the Recommended Minimum Drained Weight Averages (RMDWA's) for all styles packed in No. 300 size cans to be equivalent to the percent water capacity corresponding to the closest sized container, the No. 303 can, i.e., reduced by 9.02 percent. These changes are being requested by industry in order to improve the useability of the U.S. standards for these canned root crop vegetables. In addition, USDA will further improve the standards and promote consistency by changing the format of the tables to incorporate a column for the water capacity of each container size and add metric system tables to the canned beets and canned carrots standards.

DATES: Comments must be submitted on or before March 16, 1998.

ADDRESSES: Written comments may be submitted to Chere L. Shorter, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building; STOP 0247, P.O. Box 96456, Washington, DC 20090–6456; faxed to (202) 690–1087; or e-mailed to Chere__L__Shorter@usda.gov.

Comments should reference the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the above address during regular business hours (8 a.m.–4:30 p.m.).

The current U.S. grade standards for these canned root crop vegetables, along with the proposed changes, are available either through the above addresses or by accessing AMS's Home Page on the Internet at www.ams.usda.gov/standards/vegcan.htm.

FOR FURTHER INFORMATION CONTACT: Chere L. Shorter at (202) 720–4693.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *''. AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Canned Beets, the United States Standards for Grades of Canned Carrots, and the United States Standards for Grades of Canned White Potatoes (canned root crop vegetables) do not appear in the Code of Federal Regulations but are maintained by USDA.

AMS is proposing to change the United States Standards for Grades of Canned Beets, the United States Standards for Grades of Canned Carrots, and the United States Standards for Grades of Canned White Potatoes using the procedures it published in the August 13, 1997, **Federal Register** and that appear in part 36 of Title 7 of the Code of Federal Regulations (7 CFR part 36).

In November 1993, USDA received a request to review the RMDWA's for these canned root crops in No. 300 size containers from the National Food Processors Association's (NFPA)'s Grade Standards Review Subcommittee. NFPA requested the changes in the United States Standards for Grades of Canned Beets; Canned Carrots; and Canned White Potatoes.

NFPA is a scientifically and technically-based trade association representing over 550 food industry companies.[1] NFPA requested that the recommended drained weight of the No. 300 size container be reviewed for all styles of canned root crop vegetables. Within the last few years the canning industry has been replacing production of the No. 303 container size with the No. 300 container. The total water capacity for the No. 300 container is less than the total water capacity for a No. 303 container. The percentage water capacity, on which the recommended minimum drained weight average is based, is calculated by dividing the RMDWA for a particular style of canned root crop vegetable by the total water capacity of the container. Studies done by the USDA have found that for every style of canned root crop vegetable under consideration, in the current U.S. standards, the drained weight as a percentage of the water capacity is significantly more for the No. 300 container than for No. 303 containers, even though the available capacity of the No. 300 container is 9.02 percent less than that of the No. 303 container.

NFPA states that several companies are noting difficulty in meeting the RMDWA requirements for these products in the No. 300 cans. In some instances, critical fill weight maximums have been exceeded, causing companies to reevaluate their thermal processing schedules to be sure their product is sterile. Some companies are targeting lower than the RMDWA's. One effect of targeting too low is that production may not meet the buyers' specifications for the RMDWA's because there may be a high percentage of slack filled cans. This situation may result in a demand from buyers for a discount in price. To meet USDA requirements for drained weight, processors, by putting more product into the can than may be necessary, have sustained economic hardship, damage to the product, and sometimes loss of the integrity to the can seal. When the seal's integrity is lost during processing, the product's wholesomeness is jeopardized.

The remedies recommended by NFPA propose that the RMDWA's in the U.S.

[1] Source—USDA, NASS, ASB.

standards for grades of canned beets; canned carrots; and canned white potatoes be reduced to the same percentage water capacity offered in the No. 303 container size, i.e. lowered by 9.02 percent. The No. 303 can size was chosen because the size relationship is closest to the No. 300 can. In consideration of this proposal, the Standardization Section of the Processed Products Branch, Fruit and Vegetable Programs, AMS, initiated a study to review the current grade standards for canned root crop vegetables packed in No. 300 containers. Several companies were asked to submit data on drained weight for the two most prevalent styles of each canned root crop vegetable under consideration, mainly sliced and whole beets, diced and sliced carrots and sliced and whole potatoes. Seven PPB area field offices also collected samples and determined drained weight measurements for these commodities. The independent findings provided a cross-sectional representation of the marketplace and served as a benchmark for industry data. The drained weight data provided by the industry and by AMS for the No. 300 containers were then combined and examined. In 1996 the data and conclusions were published in a report on file with USDA titled, ''Drained Weight Study, 1995 Report on Proposal to Lower Recommended Minimum Drained Weights for Root Vegetables Packed in No. 300 Containers.''

The conclusions of the report do substantiate that there is some merit in the industry proposal to decrease the recommended minimum drained weights in the U.S. grade standards for canned beets; carrots; and white potatoes packed in No. 300 containers. Currently, the percentage water capacity, which is the ratio of the RMDWA and the water capacity of a container, is significantly higher in all cases for the smaller No. 300 container than for the No. 303 containers. For example, in diced beets, the RMDWA for the No. 300 container is 10.0 ounces, and the RMDWA for the No. 303 container is 10.5 ounces. The percent water capacity represented by 10.0 ounces is 65.8 percent, while 10.5 ounces represents a percent water capacity of only 62.3 percent.

Based on this information USDA has found that new RMDWA's for No. 300 containers, making the percentage water capacities more consistent with those of the No. 303 containers, should be considered.

Based on these findings, AMS agrees with the recommendations from NFPA and proposes to improve the United States Standards for Grades of Canned Beets; Canned Carrots; and Canned White Potatoes by making changes to and adding the following tables: Canned Beets, Table I, adding Table IA, Canned Carrots, Table I, adding Table IA, and Canned White Potatoes, Table I and Table IA. Specifically, the changes will: (1) adjust the RMDWA's for No. 300 containers which were calculated using the percentage water capacity corresponding to No. 303 containers and lowered accordingly by 9.02 percent of the RMDWA of the 303 size container; and further improve the standards and promote consistency by (2) changing the format to include tables that will incorporate the water capacity of each container size; and (3) adding metric system tables to the canned beet and canned carrot standards.

These changes, if adopted, would improve the grade standards by making RMDWA's proportional for the No. 300 can size, ensure safety of the product, and help to facilitate the marketing of canned beets, carrots and white potatoes, allowing a more equitable marketing environment for the canning industry. The affected trade has recommended and reviewed these changes, therefore AMS is publishing this notice with a 60 day comment period which will provide sufficient amount of time for interested persons to comment on changes to the standards.

Authority: 7 U.S.C. 1621–1627.

Dated: January 9, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–1053 Filed 1–14–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[FV–97–328N]

United States Standards for Grades of Canned Sweetpotatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is soliciting comments on its proposal to change the voluntary United States Standards for Grades of Canned Sweetpotatoes. Specifically, AMS proposes to lower the recommended drained weights for canned sweetpotatoes packed in retail size cans by two percent. AMS has received petitions to revise the United States Standards for Grades of Canned Sweetpotatoes. The petitioners are requesting a decrease in the recommended drained weight for sweetpotatoes packed in retail size cans including No. 10 cans. The drained weight recommendations would also add No. 300 cans, a size pack which has been increasingly utilized in the industry. These changes would allow more equitable utilization of processed sweetpotatoes across domestic growing regions and will help the sweetpotato industry to meet its market needs.

DATES: Comments must be submitted on or before March 16, 1998.

ADDRESSES: Interested persons are invited to submit their written comments to Karen L. Kaufman, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0247, P.O. Box 96456, Washington, D.C. 20090–6456; faxed to (202) 690–1087; or e-mailed to Karen__L__Kaufman@usda.gov. Comments should reference the date and page number of this issue of the **Federal Register**. The petitions and comments will be made available for public inspection at the above address during regular business hours.

The current United States Standards for Grades of Canned Sweetpotatoes, along with the proposed changes, are available through the above addresses or by accessing AMS's Home Page on the Internet at: www.ams.usda.gov/standards/vegcan.htm.

FOR FURTHER INFORMATION CONTACT: Karen L Kaufman at (202) 720–5021.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *'' The Agricultural Marketing Service (AMS) is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities. The United States Standards for Grades of Canned Sweetpotatoes do not appear in the Code of Federal Regulations but are maintained by the U.S. Department of Agriculture. Copies of official standards are available upon request.

AMS is proposing to change the United States Standards for Grades of Canned Sweetpotatoes using the procedures it published in the August 13, 1997, **Federal Register** and that appear in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36). Specifically, AMS is proposing to lower the recommended drained weight for

sweetpotatoes packed in retail size cans, including No. 10 size cans, by two percent. The drained weight criteria for the No. 300 can, a size pack which has been increasingly utilized in the industry, would also be added. This change would allow a more equitable marketing environment for domestic sweetpotato processors.

AMS received petitions from the Sweet Potato Council of the United States, and the North Carolina Sweet Potato Commission and three processors requesting the revision of the United States Standards for Grades of Canned Sweetpotatoes.

The petitioners represent a significant part of the canned sweetpotato industry. The Louisiana, Mississippi, and North Carolina sweetpotato industry provides over half of the sweetpotatoes produced domestically. [1]

The petitions indicate that the recommended drained weights for canned sweetpotatoes packed in retail size cans, as shown in the U.S. Standards for Grades of Canned Sweetpotatoes, are difficult to meet and put sweetpotato processors at an economic disadvantage in marketing these products.

The reasons given for this disparity are that the changes in the varietal types of sweetpotatoes and the growing conditions in the growing regions have changed significantly since the current Recommended Minimum Drained Weight Averages (RMDWA's) were first proposed 21 years ago. Prior to 1985, there were several varieties of sweetpotatoes utilized in canned sweetpotatoes. These varieties were Centennial, Jewel, Gold Rush, and others. Since 1989, the fresh sweetpotato market has predominantly switched to marketing the Beauregard variety because of its improved quality characteristics and yield potential. Surplus sweetpotatoes from the fresh market have traditionally supplied canning operations. Since 1989, processors have noted that the sweetpotatoes they have been using have lower total solids and lower densities than previously used varieties. As part of the industry petition to review the RMDWA's for canned sweetpotatoes, USDA requested that the sweetpotato industry submit data covering several seasons to provide evidence of this processing condition. Data was collected from plants located in Louisiana, Mississippi, and North Carolina covering several processing seasons.

The petitioners stated that to meet the standard when packing certain newer varieties of sweetpotatoes (i.e. Beauregard), the cans must be over-filled. This condition may cause damage to the sweetpotatoes resulting in downgrading the product, and may have an adverse effect on the integrity of the can seam closure. If the seal's integrity is lost during processing, the product's wholesomeness is jeopardized.

The petitioners contend that a unilateral reduction in drained weight requirements in the grade standard is indicated due to the varietal characteristics of sweetpotatoes currently available for processing.

AMS has reviewed the petitions and data submitted, and has gathered information from government and industry sources. Initial findings do substantiate that there may be a disparity between the drained weights for canned sweetpotatoes processed before 1985 and those processed since the newer varieties have become predominant.

One study showed that in 1989, a producer maintained an average fill weight of 72.8 ounces. The resulting drained weights failed to meet the minimum of 73.0 ounces in only 31 percent of production. By 1995, the average fill weight had been raised to 77.2 ounces, a full 4.2 ounces over the minimum drained weight. Despite this increase, 55 percent of production failed to meet 73 ounces after processing. This overfill not only penalized the processor financially but also threatened product quality and wholesomeness.

AMS is continuing to gather drained weight information on the newer varieties of sweetpotatoes to ascertain an equitable recommended minimum drained weight of canned sweetpotatoes. As an interim measure while further studies are made, AMS proposes to lower the recommended drained weight for sweetpotatoes packed in retail size cans, including No. 10 size cans, by two percent, and add the recommended drained weight criteria for the No. 300 can.

The No. 300 size can was not included in the last revision of the grades standard, but is being added because of the increased usage of this can size. The percentage water capacity, on which the recommended minimum drained weight averages are based, is calculated by dividing the RMDWA by the total water capacity of the container. The drained weight of the No. 300 can is based on the percentage water capacity available in the No. 303 can, which is very similar in size. As the canning industry has been replacing production of the No. 303 container size with the No. 300 can, it seems appropriate to include the RMDWA for No. 300 cans along with the other drained weight changes in the standard.

A 60-day comment period is provided for interested persons to comment on changes to the standards.

Authority: 7 U.S.C. 1621–1627.

Dated: January 9, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–1054 Filed 1–14–98; 8:45 am]

BILLING CODE 3410–02–P

[1] Source—USDA, NASS, ASB

DEPARTMENT OF AGRICULTURE

Forest Service

Authorizing BLM To Offer Oil and Gas Leases in Management Areas 21, 45, 71, 72; Bridger-Teton National Forest; Teton, Sublette and Fremont Counties, Wyoming

AGENCY: Forest Service, USDA—Lead Agency; Bureau of Land Management (BLM) Cooperating Agency.

ACTION: Notice of intent to prepare Environmental Impact Statement.

SUMMARY: The Bridger-Teton National Forest will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of the proposed authorization of the BLM to offer oil and gas leases in Management Areas 21, 45, 71, and 72.

The 1990 Bridger-Teton National Forest Land and Resource Management Plan identified all of Management Areas 21, 45, 71, and 72 as available for oil and gas leasing. The Forest Plan did not make the leasing decision for site specific lands. Therefore, because the Forest Plan made no site-specific decisions, the Forest Plan did not make an irreversible commitment of resources. The next step in the leasing process is to complete a site specific analysis of the Management Areas. The oil and gas leasing analysis is tiered to the oil and gas analysis contained within the Bridger-Teton National Forest Land and Resource Management Plan Final Environmental Impact Statement and analyzes resource issues at a smaller scale and incorporates any new resource information. The purpose of offering Management Areas 21, 45, 71, and 72 is to provide opportunities for exploration and development of leasable minerals. A specific objective of the 1990 Bridger-Teton National Forest Land and Resource Management Plan is to ''Provide leasable, locatable, and salable mineral exploration and development opportunities'' (see Goal and objective 1.1 (d) page 113 Bridger-Teton National Forest Land and

Resource Management Plan). Additionally, the Federal government's policy for minerals resource management is expressed in the Mining and Minerals Policy Act of 1970. The Act directs the Forest Service to ''foster and encourage private enterprise in the development of economically sound and stable industries and in the orderly and economic development of domestic resources* * *''

DATES: Written comments concerning the scope of the analysis described in this Notice should be received by March 2, 1998, to ensure timely consideration. Comments previously submitted in response to the scoping for the proposed Environmental Assessment dealing with leasing Management Areas 45, 21, 71, and 72 will be included in this analysis. These previous comments do not need to be resubmitted. Scoping meetings are planned for February 10, 1998 in Jackson, Wyoming at 7:00 pm in the Teton County Library and February 12, 1998 in Pinedale, Wyoming at 7:00 pm in the Sublette County Library.

ADDRESSES: Send written comments to Rick Anderson, Project Coordinator, Bridger-Teton National Forest, P.O. Box 1888, Jackson, WY 83001. E-Mail comments may be sent to: eis/r4__b-t@fs.fed.us

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Rick Anderson at (307) 739–5558, or through writing or electronic mail to the addresses listed above.

SUPPLEMENTARY INFORMATION: When the Bridger-Teton National Forest Land and Resource Management Plan was approved in 1990 it identified at a programmatic level the lands available for oil and gas leasing. The next step in the leasing process is for the Forest Service to perform a site specific leasing analysis tiered to the Forest Plan. The purpose of this analysis is to implement the authority granted to the Forest Service by the Federal Onshore Oil and Gas Leasing Reform Act of 1987 and the implementing regulations (36 CFR 228 E), and to make the leasing decision for the specific lands for which interest in leasing has been expressed.

Conducting this analysis and making the necessary determinations will include the following steps or determinations:

(a) Verify that the leasing of these lands is consistent with the Forest Plan.

(b) Determine that the leasing has been adequately addressed in a National Environmental Policy Act (NEPA) document.

(c) Determine if further analysis is needed resulting from new circumstances or new information.

(d) Determine which specific lands and under what conditions the Forest Service will consent to authorize the Bureau of Land Management (BLM) to offer for lease.

Conducting an environmental analysis on a proposed leasing action is triggered when the BLM receives an Expression of Interest in leasing a specific area. The Expression of Interest means an entity has identified a block of land that it wants to be offered for leasing. In cases where no site-specific analysis has been completed, this action requires the Forest Service to complete an analysis of the area to determine which of the nominated lands it will consent to be leased and to identify under what conditions the oil and gas activities will be permitted. The Bridger-Teton National Forest will analyze the entire Management Areas where the nominated lands are located.

To satisfy the requirements of the National Environmental Policy Act (NEPA), a proposed action must be identified by the Forest Service. A proposed action is not necessarily what will occur on the ground. It is a starting point for identification of issues and alternatives.

The Forest Service proposes to authorize the BLM to offer oil and gas leases in four areas of the Bridger-Teton National Forest.

The first area, Management Area 21, also known as the Hoback Basin Area contains approximately 72,400 acres of National Forest System lands and is located about 25 miles southeast of Jackson surrounding the community of Bondurant, WY, in Sublette County. The second area, Management Area 45, also known as the Moccasin Basin Area contains approximately 58,000 acres of National Forest System land and is located about 30 miles northeast of Jackson, WY, in Teton County. The third area, Management Area 71, also known as the Union Pass Area contains approximately 87,000 acres of National Forest System land and is located about 40 miles north of Pinedale, WY, in Fremont, Sublette and Teton Counties. The fourth area, Management Area 72, also known as the Upper Green River Area contains approximately 152,500 acres of National Forest System land and is located about 30 miles north of Pinedale, WY, in Sublette and Teton Counties.

The Final Environmental Impact Statement (FEIS) for the Bridger-Teton National Forest Land and Resource Management Plan estimates reasonable foreseeable developments for each of the Management Areas of the Forest. The estimate for Management Area 21 indicates that ''In the event of a discovery, gas with some oil or condensate would most likely be encountered, and field development would involve up to 5 wells. Wells would be drilled on 640 acre spacing.'' (FEIS p. 244) It is estimated that there would be two exploratory wells in this area. The estimation for Management Area 45 is stated as, ''the potential for the occurrence of oil and gas in this MA is high. Any discoveries will probably be gas with some oil or condensate. Spacing would be 640 acres with about 10 wells.'' (FEIS p. 197) Two of the 10 wells are expected to be exploratory wells. The estimate for MA 71 is stated as: ''The potential for the occurrence of hydrocarbons is rated high. Cretaceous through Paleozoic rocks are believed to be present along with good structural possibilities. If discovery is made, wells would be spaced on 640 acres with up to 10 wells drilled.'' (FEIS p. 198). The estimate for MA 72 is: ''The MA is rated as high for the occurrence of hydrocarbons * * * Less activity is expected here than on other MAs but it is estimated that some activity will occur. Gas would most likely be encountered in a discovery with some associated oil or condensate. Well spacing would be 640 acres. In the event that a discovery is made up to 5 wells may be drilled.'' (FEIS p. 224)

The development scenarios are based on an assumption that each exploratory well will have an average total disturbance of 15 acres—11 of which will be stabilized in about three years for a producer. Dry and abandoned wells will have no facilities and all acreage will be stabilized (FEIS p. 192)

Prior to deciding to analyze the proposed action using an Environmental Impact Statement, scoping was conducted to identify issues to be analyzed through an Environmental Assessment. This previous scoping identified many issues which will be considered in the Environmental Impact Statement. The many issues received relate to the general categories listed below:

- Economic Impacts.
- Social Impacts.
- Effects on community and regional infrastructure.
- Effects on Air quality.
- Effects on Wilderness Areas, roadless areas, and other special management areas.
- Effects on wildlife.
- Effects on vegetation.
- Effects on water quality and fisheries.
- Effects on the character of the area.

• Effects on quality of life for residents and visitor experience issues.

• Effects on National Forest recreation opportunities.

• Effects on Paleontologic Resources.

• The cumulative effects of the proposed oil and gas activities combined with the impacts of other actions on a wide spectrum of ecological and human environment areas of concern.

• Broadscale effects on the region including the neighboring National Parks.

• Adequacy of the Bridger-Teton National Forest Land and Resource Management Plan Final Environmental Impact Statement oil and gas leasing scenarios for site-specific analysis and decision making.

The previously submitted specific issues relating to the above general categories will be considered in this Environmental Impact Statement. Other potential issues may be identified during the current scoping period.

The Forest Service is seeking information and comments from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed.

Information received will be used in preparation of the draft EIS and final EIS. For the most effective use, comments should be submitted to the Forest Service by March 2, 1998.

The Responsible Official is Thomas Puchlerz, Acting Forest Supervisor, Bidger-Teton National Forest, Jackson, WY. The decision to be made is whether or not to authorize the BLM to offer specific lands for lease, subject to the Forest Service ensuring that correct stipulations are attached to the leases issued by the BLM (36CFR228.102(e)). The draft EIS is expected to be available for public review in January 1999, with a final EIS estimated to be completed in July 1999. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986), and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at CFR 40 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentially should be aware that, under the FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Dated: January 19, 1998.

Michael Schrotz,

Acting Deputy Forest Supervisor, Brider-Teton National Forest, USDA Forest Service.

[FR Doc. 98–748 Filed 1–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Pilot Program for Barge Inspection Services

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA is announcing its plan to conduct a pilot program allowing more than one official agency to provide barge inspection services within a single geographic area.

EFFECTIVE DATE: March 1, 1998.

ADDRESSES: Neil E. Porter, Director, Compliance Division, STOP 3604, (Room 1647–S), 1400 Independence Ave. S.W., Washington, D.C. 20250–3604.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION: Sections 7(f) and 7A of the United States Grain Standards Act, as amended, (Act) were amended by the U.S. Grain Standards Act Amendments of 1993 (Public Law 103–156) on November 24, 1993, to authorize GIPSA's Administrator to conduct pilot programs. These pilot programs would allow more than one official agency to provide official services within a single geographic area without undermining the declared policy of the Act. The purpose of pilot programs is to evaluate the impact of allowing more than one official agency to provide official services within a single geographic area.

GIPSA considered several possible pilot programs as announced in the March 14, 1994, **Federal Register** (59 FR 11759) and the March 10, 1995, **Federal Register** (60 FR 13113). In the September 27, 1995, **Federal Register** (60 FR 49828) GIPSA announced two pilot programs, ''Timely Service'' and ''Open Season,'' starting on November 1, 1995, and ending on October 31, 1996. These two pilot programs were extended to October 31, 1999, as announced in the October 3, 1996, **Federal Register** (61 FR 51674).

The March 14, 1994, **Federal Register** invited comments on a possible pilot program for barges on selected rivers or portions of rivers as defined by GIPSA.

This was one of five potential pilots being considered. GIPSA received 41 comments. Seven specifically talked about the pilot programs for barges. Of those seven, five supported the program for barges, and two did not. Subsequently, GIPSA determined that this proposed pilot program was too narrow in scope for the initial round of pilot programs.

Subsequently, some official agencies expressed their belief that a pilot program on the Mississippi River would be beneficial because there is some uncertainty over the boundary lines between official agencies along the Mississippi River. At one point GIPSA considered the boundary to be the middle of a river. Official agencies found this very difficult to work with, and GIPSA subsequently changed the boundary definition to the edge of a river. The middle of a river was viewed as an open area to be served by either contiguous official agency.

In 1993, because of flooding along the Mississippi River, GIPSA granted a temporary exception for certain types of barge inspections along portions of the Illinois, Mississippi, and Missouri Rivers. This exception made the covered river areas open to any official agency for probe sampling and inspections to expedite barge traffic. GIPSA noted no problems resulting from this exception.

In addition, some facilities located along the Mississippi River (Birds Point Terminal, Bertrand, Missouri; Peavey Company, St. Louis, Missouri; ADM, Winona, Minnesota; and Consolidated Grain, Caruthersville, Missouri) have received services from alternative official agencies under the existing pilot programs. There have been no significant problems resulting from the barge inspections on the Mississippi River under the existing pilot programs.

GIPSA announced and invited comments on the following four possible pilot programs in the October 10, 1997, **Federal Register** (62 FR 52967).

1. Barges on the Mississippi River may be sampled by probe by any official agency; or

2. Barges on the Mississippi River may be sampled by probe at any location by the official agency designated to serve the geographic area within which the barge was loaded; or

3. Barges on all rivers may be sampled by probe by any official agency; or

4. Barges on all rivers may be sampled by probe at any location by the official agency designated to serve the geographic area within which the barge was loaded.

Comments were due by November 15, 1997. GIPSA received seven comments: five from official agencies (two private and three States) and two from trade organizations. Four official agencies supported option 4 and one supported option 2. Both options 2 and 4 would limit the pilot program to the official agency serving the area within which the barge was loaded. Option 2 is further limited to the Mississippi River while option 4 covers all rivers nationwide. The official agencies cited their belief that options 2 and 4 would provide more flexibility to the grain industry, and their concern that options 1 and 3 would weaken the official system. Allowing unrestricted access to grain barges would cause their fixed cost to rise as high inspection volume customers are lost and they are left with the responsibility of providing service to infrequent users of official services. This, they believe, would encourage official agencies to focus on serving high volume customers and encourage customers to look for better grades. Official agencies would tend to become national, contract with one large customer, and lose integrity and impartiality.

One of the three State official agencies did not favor projects opening up agency geographic areas while the other two State official agencies supported option 2 and 4 respectively. The State official agencies noted other concerns including their limitations on travel, inability to add or decrease staff quickly, and their stronger neutrality and integrity base on non-profit status compared to most private official agencies.

GIPSA recognizes these concerns, but believes that there are adequate safeguards in the proposed pilot programs.

Two national grain trade organizations supported option 3. Option 3 would allow barges, nationwide, to be probe-sampled by any official agency no matter where it is located or where it was loaded. These two organizations cited their belief that option 3 would provide grain handlers another option for obtaining timely official inspection services when the official agency serving them is busy. It would, they believe, provide better access to service, and foster official agency emphasis on quality and efficiency. They also believed that market driven-competition can effectively and efficiently address many of the factors that discourage use of the domestic official inspection system. They believe the other proposed pilot programs would be too limited in scope.

After consideration of all relevant information, GIPSA is announcing that effective March 1, 1998, and ending October 31, 1999, concurrently with the two existing pilot programs, barges on all rivers may be sampled by probe by any official agency. During this time, GIPSA will monitor all pilot programs. Anytime, GIPSA determines that a pilot program is having a negative impact on the official system or is not working as intended, the pilot program may be modified or discontinued. If GIPSA determines that a customer violates the provisions of this pilot program, such customer will no longer be permitted to participate in the program.

Official agencies participating in this pilot program must notify GIPSA's Compliance Division at 202–720–8525 or FAX 202–690–2755 any time they sample a barge outside their assigned geographic area.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: January 9, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–921 Filed 1–14–98; 8:45 am]

BILLING CODE 3410–EN–P

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: January 22, 1998.

PLACE: ARRB, 600 E Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meetings.
2. Review of Assassination Records.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW; Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 98–1086 Filed 1–12–98; 4:21 pm]

BILLING CODE 6118–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Massachusetts Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 10:30 a.m and adjourn at 3:00 p.m. on

Thursday, February 5, 1998, at the Westborough State Hospital, Lincoln Room, P.O. Box 288, Lyman Street, Westborough, Massachusetts 01581. The purpose of the meeting is to plan for the statewide civil rights conference scheduled for March 1998.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Fletcher Blanchard, 413–585–3909, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 8, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–1065 Filed 1–14–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–820]

Ferrosilicon From Brazil: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: On November 22, 1996, the Department of Commerce published the final results of the first administrative review of the antidumping duty order on ferrosilicon from Brazil. The review covered Companhia de Ferro Ligas da Bahia, a manufacturer/exporter of the subject merchandise to the United States. The period of review is August 15, 1993 through February 28, 1995. The respondent and the petitioners filed ministerial error comments with regard to these final results of review on November 25, and November 26, 1996, respectively. Subsequently, both parties filed suit with the Court of International Trade regarding these final results of review. On August 18, 1997, the Court on International Trade consolidated the court cases and gave leave to the Department of Commerce to consider certain alleged ministerial errors, and where appropriate, make corrections. Based on the correction of certain ministerial errors made in the final results of review, we are amending our final results of review.

EFFECTIVE DATE: January 15, 1998.

FOR FURTHER INFORMATION CONTACT: Cameron Werker or Wendy J. Frankel, AD/CVD Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–3874 or (202) 482–5849, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

The Department of Commerce (the Department) has now amended the final results of this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). Unless otherwise indicated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR 353 (April 1, 1997).

Background

On November 22, 1996, the Department published the final results of the first administrative review of the antidumping duty order on ferrosilicon from Brazil (61 FR 59407), covering the period August 15, 1993 through February 28, 1995. The respondent is Companhia de Ferro Ligas da Bahia (Ferbasa). The petitioners are Aimcor and SKW Metals & Alloys Inc.

On November 25, and November 26, 1996, respectively, Ferbasa and the petitioners filed allegations that the Department made certain ministerial errors in the final results of administrative review. Subsequently, both parties filed suit with the Court of International Trade (CIT) regarding the final results of review. On August 18, 1997, the CIT consolidated the court cases and gave leave to the Department to consider certain alleged ministerial errors, and where appropriate, make corrections.

As discussed below, in accordance with 19 CFR 353.28(d), we have determined that the issues raised in the order from the CIT are ministerial errors. On December 17, 1997, the Department released draft amended final results of review to Ferbasa and to petitioners. On January 7, 1998, Ferbasa submitted comments regarding the draft final results of review. The petitioners did not submit comments.

Alleged Ministerial Errors

Issue 1: Ferbasa argues that the Department erroneously added to constructed value (CV) an amount calculated for ICMS and IPI taxes related to home market sales prices rather than materials costs.

Department's Position: We agree with Ferbasa. In our calculation of CV for the final results of review, we inadvertently used the tax amounts reported for home market sales. For these amended final results we have used the amounts provided by Ferbasa in Exhibit D–16 of its March 27, 1996, supplemental submission, which reflect the amount of ICMS and IPI taxes incurred for material inputs used in the production of ferrosilicon.

Issue 2: Ferbasa asserts that in calculating it's home market indirect selling expenses, the Department erroneously used the originally reported indirect selling expense figures rather than the corrected values reported in Exhibit D–20 of it's March 27, 1996, supplemental submission.

Department's Position: We agree with Ferbasa that we inadvertently used the incorrect indirect selling expenses provided in Ferbasa's original submission. For these amended final results, we have used the corrected values reported by Ferbasa in Exhibit D–20 of its March 27, 1996, supplemental submission.

Issue 3: The petitioners argue that for the final results of review, the Department failed to express the final dumping margin as a percentage in the computer calculations, thereby understating the margin by a factor of 100.

Department's Position: We agree with the petitioner. For these amended final results, we have formatted the calculation spreadsheet to express the margin as a percentage.

Issue 4: The petitioners state that in calculating CV, the Department used only the cost of production (COP) values for December 1994, and therefore, normal value, which was based on CV, was not based on a six-month weighted average CV as discussed in the Department's final results of review **Federal Register** notice.

Department's Position: We agree with the petitioners that in our calculation of normal value, we inadvertently failed to weight average the six months of costs for the subject merchandise. We corrected this error for the amended final results of review.

Issue 5: The petitioners allege that when converting normal value from

reais to U.S. dollars, the Department incorrectly divided the reais amount by the exchange rate.

Department's Position: We agree with the petitioners. The exchange rate that the Department used was 1.182033 U.S. dollars = 1 real. Therefore, when converting reais to U.S. dollars, we should have multiplied the reais amount by 1.182033. We have corrected this calculation for these amended final results of review.

Issue 6: The petitioners allege that the Department made the same conversion error, noted in *Issue 5* above, with regard to U.S. packing expenses.

Department's Position: We agree with the petitioners and have corrected this error for these amended final results of review.

Issue 7: The petitioners contend that in calculating adjustments to CV the Department subtracted home market packing expenses from a CV that did not include those expenses.

Department's Position: We agree with the petitioners, and have eliminated this adjustment from the weighted-average margin calculation for these amended final results of review.

Issue 8: The petitioners note that although the Department's final results of review analysis memorandum states that the Department calculated the ratio of net profit to cost of goods sold based on information from Ferbasa's financial statements, it appears that the Department actually calculated a ratio of net profit to net sales value, thereby understating the profit ratio.

Ferbasa contends that in the draft amended final results of review, the Department calculated the profit ratio using profit and cost of manufacturing rather than profit and cost of goods sold. Ferbasa further contends that the Department should apply the profit rate to a pre-profit CV that does not include amounts for ICMS and IPI taxes since the profit ratio is calculated based on a cost of goods sold amount that is net of the ICMS and IPI taxes.

Department's Position: We agree with the petitioners that in our final results of review we inadvertently calculated a ratio of profit to net sales value. We also agree with Ferbasa that for the draft amended final results of review, we inadvertently used the cost of manufacturing rather than the cost of goods sold in our profit rate calculation. For these amended final results, we have corrected the profit calculation to reflect a ratio of net profit to cost of goods sold. However, there is no information on the record to substantiate Ferbasa's claim that the cost of goods sold figure is calculated net of ICMS and IPI taxes. Therefore, we are not changing the pre-profit CV in our calculations to exclude these taxes.

Issue 9: The petitioners argue that the Department's final results of review analysis memorandum states that the Department applied an 18 percent facts available (FA) rate for ICMS taxes incurred by Ferbasa on electricity costs. Petitioners note, however, that in the calculations, the Department applied as FA for ICMS taxes on electricity an actual figure that was less than 18 percent of Ferbasa's electricity cost.

Department's Position: We agree with the petitioners and have corrected this error for these amended final results of review.

Amended Final Results of Review

As a result of our correction of the ministerial errors, we have determined that the amended weighted-average margin for Ferbasa for the period August 15, 1993 through February 28, 1995 is 30.69 percent.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final amended results of administrative review, as provided for by section 751(a)(1) of the Act: (1) The amended cash deposit rate for the reviewed company named above will be the rate as stated above; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate for all other manufacturers or exporters will be 35.95 percent, the All Others rate established in the amended final LTFV investigation. These amended deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Assessment Rates

For assessment purposes, we calculated an importer-specific assessment rate. For the export price (EP) sale, we divided the total dumping margin (calculated as the difference between normal value and EP) by the total entered value of the merchandise. Upon completion of this review, we will direct the U.S. Customs Service to assess the resulting *ad valorem* rate against the entered value of each entry of the subject merchandise by the importer during the period of review.

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

These amended final results of administrative review and notice are in accordance with section 751(a)(1) and (h) of the Tariff Act (19 U.S.C. 1675(a)(1) and (h) and 19 CFR 353.28.

Dated: January 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1158 Filed 1–14–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010998B]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Council will hold public meetings (including hearings) in Hawaii on the islands of Maui, Oahu, and Kauai to

solicit comment on a limited access program proposed for the Mau Zone bottomfish fishery in the Northwestern Hawaiian Islands.

DATES: The schedule for the public meetings is as follows: Tuesday, 27 January 1998, Lihikai Elementary School, 6:00 pm - 9:00 pm, Kahalui, Maui; Wednesday, 28 January 1998, Council Office, 6:30 pm - 9:00 pm, Honolulu, Hawaii; and Thursday, 29 January 1998, Wilcox Elementary, 6:00 pm - 9:00 pm, Lihue, Kauai.

ADDRESSES: The meetings will be held at: Maui, Lihikai Elementary School, Kahalui, Maui, 335 Papa Street, 96732; Oahu, Council Office, 1164 Bishop Street, Suite 1400, Honolulu, Hawaii, 96813; Kauai, Wilcox Elementary School, 4319 Hardy Street, Lihue, Kauai, 96766. Telephone inquires can be made to (808) 522–8220.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION: The Western Pacific Fishery Management Council will be holding public meetings/hearings on Maui, Oahu, and Kauai to solicit comments on the proposed limited access system for the Mau Zone bottomfish fishery in the Northwestern Hawaiian Islands. In 1989 the Mau Zone was established through Amendment 2 of the Council's Bottomfish and Seamount Groundfish Fishery Management Plan. The Mau Zone was created as an open access fishery but required a federal permit for participation. Currently, a 2 year moratorium is in place on the issuance of new permits for the Mau Zone fishery. The moratorium is scheduled to expire 27 March 1999, by which time the Council intend to establish a new management program for the fishery.

Although other issues not on the agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during these meetings. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: January 9, 1998.

Richard W. Surdi,

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

[FR Doc. 98–1051 Filed 1–14–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010998A]

Endangered and Threatened Species; Permits

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

ACTION: Receipt of applications for scientific research permits 1059, 1072, 1074, 1075, 1088, 1092, 1114, 1115, and 1116. Issuance of scientific research permits 1066, 1079, 1080, 1082, 1103, 1104, modification 3 to permit 895, and amendments to permits 795, 1005, 822, and 825.

SUMMARY: Notice is hereby given that the following applicants have applied in due form for permits that would authorize takes of an endangered or threatened species for scientific research purposes: Carl Page, in Cotati, CA (1059); U.S.D.I. Bureau of Reclamation (BOR), in Shasta Lake, CA (1072); Pacific Lumber Company (PLC), in Scotia, CA (1074); Pacific Coast Federation of Fishermen's Associations (PCFFA), in Miranda, CA (1075); U.S.D.I. Bureau of Land Management (BLM), in Arcata, CA (1088); Sierra Pacific Industries (SPI), in Redding, CA (1092); the State of Washington, Department of Fish and Wildlife (WDFW) at Olympia, WA (1114); Public Utility District No. 1 of Chelan County (PUDCC), at Wenatchee, WA (1115); and Public Utility District No. 1 of Douglas County (PUDDC) at East Wenatchee, WA (1116).

Notice is also given that NMFS has issued scientific research permits that authorize takes of Endangered Species Act-listed anadromous fish species for the purpose of scientific research and/or enhancement, subject to certain conditions set forth therein, to: D.W. Alley and Associates (DWAA), Brookedale, CA (1066); Georgia-Pacific West, Inc. (GPWI), Fort Bragg, CA (1079); Dr. Jerry J. Smith, San Jose State University (SJSU), San Jose, CA (1080); Salmon Trollers Marketing Association (STMA), Fort Bragg, CA (1082); the California Department of Forestry and Fire Protection (CDFFP), Santa Rosa, CA (1103); Louisiana-Pacific Corporation (LPC), Trinidad, CA (1104); has issued a modification to a permit to the U.S. Army Corps of Engineers (Corps), at Walla Walla, WA (895).

Notice is also given that NMFS issued amendments to permits to: the Idaho Department of Fish and Game (IDFG), at Boise, ID (795); the Northwest Fisheries Science Center, NMFS (NWFSC), at Seattle, WA (1005); the Fish Passage Center (FPC), at Portland, OR (822); and the Columbia River Inter-Tribal Fish Commission (CRITFC), at Portland, OR (825).

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before February 17, 1998.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For applications/permits 1059, 1066, 1072, 1074, 1075, 1079, 1080, 1082, 1088, 1092, 1103, 1104: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707 575–6066);

For applications/permits 895, 795, 1005, 822, 825, 1114, 1115, 1116: Protected Resources Division, F/NWO3, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400);

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permits 1059, 1066, 1072, 1074, 1075, 1079, 1080, 1082, 1088, 1092, 1103, 1104: Tom Hablett, Protected Resources Division, NMFS Santa Rosa office, (707–575–6066).

For permits 1114, 1115, 1116: Tom Lichatowich, Protected Resources Division, NMFS Portland office, (503–230–5438).

For permits 895, 795, 1005, 822, 825: Robert Koch, Protected Resources Division, NMFS Portland office, (503–230–5424).

SUPPLEMENTARY INFORMATION: Permits are requested under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a

hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Issuance of these permits, modifications, and amendments, as required by the ESA, was based on a finding that such permits, modifications, and amendments: (1) Were applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. These permits, modifications, and amendments were also issued in accordance with and are subject to parts 217-222 of Title 50 CFR, the NMFS regulations governing listed species permits.

Applications Received

Carl Page (1059) requests a five-year permit for takes of: adult and juvenile, threatened, southern Oregon/northern California coast (SONNC) coho salmon (*Oncorhynchus kisutch*); adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*); and adult and juvenile, endangered, southern California coast steelhead (*Oncorhynchus mykiss*) associated with fish population and habitat studies in coastal drainages throughout California. The studies consist of coho salmon habitat and biological inventories, and project monitoring and evaluation studies for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

BOR (1072) requests a five-year permit for takes of adult and juvenile, threatened, SONNC coho salmon (*Oncorhynchus kisutch*) associated with monitoring projects in the Trinity, Klamath and New River Basins within the Evolutionarily Significant Unit (ESU). The studies consist of coho salmon distribution and abundance surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

PLC (1074) requests a five-year permit for takes of adult and juvenile, threatened, SONNC coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies on PLC ownership properties in basins of the Eel, Van Duzen, and Mattole Rivers, Freshwater Creek, and coastal stream drainages to Humboldt Bay within the ESU. The studies consist of coho salmon habitat and biological inventories, and project monitoring and evaluation studies for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

PCFFA (1075) requests a five-year permit for takes of adult and juvenile, threatened, SONNC coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies in the Eel River Basin within the ESU. The studies consist of coho salmon distribution, abundance and genetic surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

BLM (1088) requests a five-year permit for takes of adult and juvenile, threatened, SONNC coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies in the Eel and Mattole River Basins, and Humboldt County coastal stream drainages within the ESU. The studies consist of coho salmon distribution, abundance and spawner surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

SPI (1092) requests a five-year permit for takes of adult and juvenile, threatened, SONNC coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies on SPI ownership properties within the ESU. The studies consist of coho salmon habitat and biological inventories for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

WDFW (1114) requests a five-year permit for a take of juvenile endangered, naturally-produced and artificially-propagated, Upper Columbia River steelhead (*Oncorhynchus mykiss*) associated with a smolt monitoring program at Rock Island Dam on the Columbia River. The purpose of the program is to collect information on juvenile fish migration timing, survival, travel timing, and general fish health. The data will be used to make in-season adjustments to water releases from upstream reservoirs that optimize downstream migration conditions. ESA-listed juvenile fish are proposed to be collected in a permanent inclined screen trap, anesthetized, examined and/or tagged with passive integrated transponders (PIT), allowed to recover from the anesthetic, and released. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

PUDCC (1115) requests a five-year permit for takes of endangered, naturally-produced and artificially-propagated, Upper Columbia River steelhead (*Oncorhynchus mykiss*) associated with two research studies. The purpose of study one is to evaluate the juvenile fish bypass system installed at Rock Creek Dam. Data collected will be used to test and improve the surface collector system that guides juvenile salmonids around the dam. ESA-listed juvenile fish are proposed to be collected by surface collectors at the dam, anesthetized, examined and/or PIT-tagged, allowed to recover from the anesthetic, and released. The purpose of study two is to monitor juvenile fish gas bubble trauma at Rocky Reach and Rock Island Dams on the Columbia River. The information obtained will be used to determine how fish are affected by gas bubbles and what can be done to minimize gas bubble trauma. ESA-listed juvenile fish are proposed to be collected by surface collectors at the dams, anesthetized, examined, allowed to recover from anesthetic, and released. ESA-listed juvenile fish indirect mortalities associated with both studies are also requested.

PUDDC (1116) requests a five-year permit for takes of endangered, naturally-produced and artificially-propagated, Upper Columbia River steelhead (*Oncorhynchus mykiss*) associated with a study designed to determine the survival and migration differences of juvenile fish as they pass downstream through Lake Pateros and Wells Dam. ESA-listed juvenile fish are proposed to be collected by rotary screw traps and/or beach seines. All ESA-listed fish captured will be examined under water and released into the

stream where captured without additional handling. The information will be used to determine the appropriateness of utilizing selected surrogate stocks in future survival studies in the mid-Columbia River. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

Permits Issued

Notice was published on September 18, 1997 (62 FR 48995) that an application had been filed by DWAA (1066) to take threatened central California coast coho salmon as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217-222). Permit 1066 was issued to DWAA on December 23, 1997. Permit 1066 expires on June 30, 2002.

Notice was published on September 11, 1997 (62 FR 47790) that an application had been filed by GPWI (1079) to take threatened central California coast coho salmon as authorized by the ESA. Permit 1079 was issued to GPWI on December 23, 1997. Permit 1079 expires on June 30, 2002.

Notice was published on September 11, 1997 (62 FR 47790) that an application had been filed by SJSU (1080) to take threatened central California coast coho salmon as authorized by the ESA. Permit 1080 was issued to SJSU on December 23, 1997. Permit 1080 expires on June 30, 2002.

Notice was published on September 18, 1997 (62 FR 48995) that an application had been filed by STMA (1082) to take threatened central California coast coho salmon as authorized by the ESA. Permit 1082 was issued to STMA on December 23, 1997. Permit 1082 expires on June 30, 2002.

Notice was published on August 22, 1997 (62 FR 44646) that an application had been filed by CDFFP (1103) to take threatened central California coast coho salmon as authorized by the ESA. Permit 1103 was issued to CDFFP on December 23, 1997. Permit 1103 expires on June 30, 2002.

Notice was published on August 22, 1997 (62 FR 44646) that an application had been filed by LPC (1104) to take threatened central California coast coho salmon as authorized by the ESA. Permit 1104 was issued to LPC on December 23, 1997. Permit 1103 expires on June 30, 2002.

Modifications Issued

Notice was published on October 14, 1997 (62 FR 53319) that an application had been filed by the Corps for modification 3 to enhancement permit 895. Modification 3 to permit 895 was issued on December 24, 1997. Permit 895 authorizes the Corps annual takes of adult and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*); adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); and adult and juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with the operation of the Juvenile Fish Transportation Program at four hydroelectric projects on the Snake and Columbia Rivers (Lower Granite, Little Goose, Lower Monumental, and McNary Dams). For modification 3, the Corps is authorized an increase in the annual incidental take of adult, threatened, Snake River spring/summer chinook salmon associated with fallbacks through the juvenile fish bypass systems at the projects. A corresponding increase in ESA-listed adult salmon incidental mortalities are also authorized. Modification 3 is valid for the duration of the permit. Permit 895 expires on December 31, 1998.

Amended Permits

Amendments to scientific research and/or enhancement permits 795, 1005, 822, and 825 were issued on December 29, 1997. The amendments authorize an extension of each of the permits through May 31, 1998. The permits were all due to expire on December 31, 1997. Extensions of the permits are necessary to allow the permit holders to continue activities while new permits are applied for and/or to allow them the opportunity to develop take estimates of ESA-listed steelhead (*Oncorhynchus mykiss*) for the applications. Permits 795 and 1005 authorize IDFG and NWFSC takes of adult and juvenile, endangered, Snake River sockeye salmon associated with a captive broodstock program. Permits 822 and 825 authorize FPC and CRITFC takes of juvenile, endangered, Snake River sockeye salmon; adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon; and adult and juvenile, threatened, Snake River fall chinook salmon associated with scientific research and monitoring activities.

Dated: January 9, 1998.

Barbara A. Schroeder,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–1050 Filed 1–14–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010898B]

Marine Mammals; Scientific Research Permits (PHF# 782–1438 and PHF# 774–1437)

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

ACTION: Receipt of applications.

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, Washington 98115–0700 has applied in due form for a permit to take multiple cetacean and pinniped species for purposes of scientific research. In addition the Southwest Fisheries Science Center, National Marine Fisheries Service, NOAA, P.O. Box 271 La Jolla, CA 92038–0271 has applied in due form for a permit to take multiple pinniped species for the purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before February 17, 1998.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150).

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on these particular requests would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no

later than the closing date of the comment period. Please note that comments will not be accepted by email or other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The National Marine Mammal Laboratory seeks to conduct aerial surveys of large and small cetaceans in the waters off the coasts of Alaska, Washington, Oregon, and California. During the course of these surveys, some pinniped species may also be inadvertently harassed.

The Southwest Fisheries Science Center seeks to conduct photographic aerial surveys of pinniped rookeries and/or haulouts in California, Oregon, Washington, and Alaska. These surveys will assess pinniped populations and determine distribution, length frequencies, breeding densities, nearest neighbor distances, and population indices.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: January 8, 1988.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–1049 Filed 1–14–98; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 98–1]

Black & Decker Corporation, et al.; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of first prehearing conference.

DATES: This notice announces a prehearing conference to be held in the matter of The Black & Decker Corporation, et al. on January 29, 1998, at 10:00 a.m.

ADDRESSES: The prehearing conference will be in hearing room 420 of the East-West Towers Building, 4330 East-West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: For additional information contact Sadye E. Dunn, Secretary, U.S. Consumer Product Safety Commission, Washington, D.C.; telephone (301) 504–0500; telefax (301) 504–0127.

SUPPLEMENTARY INFORMATION: This public notice is issued pursuant to 16 CFR 1025.21(b) of the U.S. Consumer Product Safety Commission's Rules of Practice for Adjudicative Proceedings to inform the public that a prehearing conference will be held in an administrative proceeding under Section 15 of the Consumer Product Safety Act (CPSA) captioned CPSC Docket No. 98–1, In the Matter of The Black & Decker Corporation; and Charles E. Fenton, Barbara B. Lucas, and Thomas M. Schoewe, Directors, Black & Decker (U.S.) Inc.; and Black & Decker (U.S.) Inc. The Presiding Officer in the proceeding is United States Administrative Law Judge William B. Moran. The Presiding Officer has determined that, for good and sufficient cause, the time period for holding this first prehearing conference had to be extended to the date announced above, which date is beyond the fifty (50) day period referenced in 16 CFR 1025.21(a).

The public is referred to the Code of Regulations citation listed above for identification of the issues to be raised at the conference and is advised that the date, time and place of the hearing also will be established at the conference.

Substantively, the issue being litigated in this proceeding is described by the Presiding Officer as whether the Black and Decker Spacemaker Toaster, Model T1000, Type 1, (''Spacemaker Toaster'') presents a fire hazard as a consequence of an allegedly defective electronic timer; whether the allegedly defective timer constitutes a design defect under 15 U.S.C. 2064; whether the allegedly defective timer creates a substantial risk of injury to consumers within the meaning of Section 15(a)(2), (c) and (d) of the CPSA, 15 U.S.C. 2064(a)(2), (c) and (d); and whether, consequently, the Spacemaker Toaster presents a substantial product hazard, as described in sections 15(a)(2), (c) and (d) of the CPSA, 15 U.S.C. 2064(a)(2), (c) and (d). Should the allegations be proven, Complaint Counsel for the Office of Compliance of the U.S. Consumer Product Safety Commission seeks a finding that the product presents a substantial product hazard and that public notification be made pursuant to section 15(c) of the CPSA and that other appropriate relief be directed, as set forth in the Complaint.

Dated: January 12, 1998.

Sadye E. Dunn,

Consumer Product Safety Commission.

[FR Doc. 98–1076 Filed 1–14–98; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0225]

Notice and Request for Comments Regarding an Information Collection Requirement

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. 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 estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through June 30, 1998. DoD proposes that OMB extend its approval for use through June 30, 2001.

DATES: Consideration will be given to all comments received by March 16, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Melissa D. Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon,

Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0225 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0225 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa D. Rider, at (703) 602–0131. A copy of this information collection requirement is available electronically via the INTERNET at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Ms. Melissa D. Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

Title, Associated Form, and OMB Number: Defense FAR Supplement Part 204, Administrative Matters, and related clauses at 252.204; OMB Control Number 0704–0225.

Needs and Uses: This information collection requirement pertains to two types of information that a contractor must submit to DoD.

a. The Defense Federal Acquisition Regulation Supplement (DFARS), at 204.404–70(a), prescribes the use of the clause at DFARS 252.204–7000, Disclosure of Information, when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public. this clause requires contractors to obtain contracting officer approval to release unclassified information outside of the contractor's organization unless the information is already in the public domain. In requesting such approval, the contractor must identify the specific information that will be released, the medium that will be used, and the purpose for the release. The Government reviews the information provided by the contractor to determine if it is sensitive or otherwise inappropriate for release for the stated purpose. Such requests are normally received only on research and development contracts or large dollar systems or operations contracts.

b. DFARS 204.602–70 prescribes the use of the solicitation provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, when CAGE codes for prospective offerors are not available to contracting officers. The provision requires an offeror to submit as part of its offer either a previously assigned GAGE code, or to ask the contracting officer to request a code from the Defense Logistics Service Center. In the latter case, the Government will obtain a CAGE code for the offeror, if it is selected for award, using the procedures at DFARS 204.7202–1. The CAGE codes provided by offerors are used by the Government in automated acquisition systems to identify discrete entities that have been awarded contracts. The codes support efficient data exchange among automated systems for contract award, contract administration, and contract payment.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 66,898.

Number of Responses: 108,261.

Responses per Respondent: 1.

Average Burden per Response: .62 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection requirement pertains to information that contractors must submit to DoD to request release of unclassified data that is not in the public domain, or to provide or request assignment of a contractor and Government entity (CAGE) code. This information is used by DoD to (1) control unclassified data that is sensitive or otherwise inappropriate for release for the contractor's stated purpose, and (2) support efficient data exchange among automated systems for contract award, contract administration, and contract payment by assigning a unique code to each contractor doing business with DoD.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–971 Filed 1–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0216]

Information Collection Requirements; Bonds and Insurance

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Sections 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), DoD announces the proposed extension of a public information collection requirement, and seeks public comment on the provisions thereof. 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 estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through September 30, 1998. DoD proposes that OMB extend its approval for use through September 30, 2001.

DATES: Consideration will be given to all comments received by March 16, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, (PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0216 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0216 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 228, Bonds and Insurance, and Related Clauses at 252.228, OMB Control Number 0704–0216.

Needs and Uses: This information collection requirement pertains to information collections used by DoD claims investigators to determine the amount and extent of claims placed against the Government and by DoD contracting officers to assess whether a contractor, other than a Spanish contractor or subcontractor, performing a service or construction contract in Spain, has insurance adequate to cover the risk assumed by the contractor or subcontractor.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 859 hours.

Number of Respondents: 49.

Responses Per Respondent: 1.

Number of Responses: 49.

Average Burden Per Response: 17.53 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

- DFARS 252.228–7000, Reimbursement for War-Hazard Losses, requires the contractor to provide notice and supporting documentation to the Government regarding claims or potential claims under the clause.
- DFARS 252.228–7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, requires the contractor to report promptly to the Administrative Contracting Officer all pertinent facts relating to each accident involving an aircraft, missile, or space launch vehicle being manufactured, modified, repaired, or overhauled in connection with the contract.
- DFARS 252.228–7006, Compliance with Spanish Laws and Insurance, requires the contractor to provide a written representation that the contractor has obtained the required types of insurance in the minimum amounts specified in the clause. This information is obtained from contractors under service or construction contracts to be performed in Spain by other than Spanish contractors or subcontractors.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–972 Filed 1–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0231]

Information Collection Requirements; Mortuary Services Contracts

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through June 30, 1998. DoD proposes that OMB extend its approval for use through June 30, 2001.

DATES: Consideration will be given to all comments received by March 16, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Mr. Michael Pelkey, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite OMB Control Number 0704–0231 in all correspondence related to this issue. Comments may also be provided electronically by e-mailing the comments to dfars@acq.osd.mil. Please include OMB Control Number 0704–0231 in the subject line of the e-mail.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Pelkey, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Mr. Michael Pelkey, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 237.70, Mortuary Services, and the associated clause at DFARS 252.237–7011; no form is used for this information collection; OMB Number 0704–0231.

Needs and Uses: This requirement provides for the collection of necessary information from contractors regarding the results of the embalming process under contracts for mortuary services. The information is used to ensure proper preparation of the body for shipment and burial.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 400.

Number of Responses: 800.

Responses per Respondent: 1.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The clause at DFARS 252.237–7011, Preparation History, requires that the contractor submit information describing the results of the embalming process on each body prepared for burial under a DoD contract.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–973 Filed 1–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Advisory Committee Meetings

SUMMARY: The Defense Science Board will meet in closed session on February 4–5, May 20–21, and October 7–8, 1998 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition & Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: January 9, 1998.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–964 Filed 1–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

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

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 9, 1998. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before March 16, 1998.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

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

Dated: January 9, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Comprehensive School Reform Demonstration Program.

Abstract: This application will be used by the State Education Agencies (SEAs) to obtain funds to provide competitive grants to local education agencies to assist local Title I and some non-Title I schools to adopt research-based comprehensive school reform models. The information will be used to review and to approve SEA applications to participate in the program.

Additional Information: An emergency request for this collection is two-fold. First, any delay in requesting applications from State Education Agencies (SEAs) beyond February 1998 will mean that the demonstration of comprehensive school reform models to be funded under this legislation will not be able to begin until the school year starting in 1999. Thus, the Department will not be able to fulfill the intent of Congress that these comprehensive innovations begin in the 1998 school year and provide evidence in succeeding years that can have a positive influence on the reauthorization of Title I itself. Second, this program was developed in the Congress at the end of the 1998 budget process. It was unclear until the final conference on the Department's budget if this program would actually become law. Thus, the Department could not develop materials that could go through the public comment process in a way that avoids the need for this emergency clearance approach. Therefore, ED is requesting approval by February 9, 1998 in order for the State competitive grant programs to be implemented in time for schools to establish working relationships with the providers of comprehensive school reform models in September 1998.

Frequency: Annually.

Affected Public: Businesses or other for-profits; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 56. Burden Hours: 2,240.

[FR Doc. 98–995 Filed 1–14–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of proposed information collection requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

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

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 13, 1998. A regular clearance process is also beginning. Interested persons are

invited to submit comments on or before March 16, 1998.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708-9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506(c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

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

Dated: January 9, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Secretary

Type of Review: New.

Title: America Reads Pilot Sites Letter, and Request for Information from America Reads Federal Work Study and President's Coalition Members.

Abstract: Improving the teaching and learning of reading is one of the Department of Education's seven priorities. This summer, the Department will sponsor America Reads pilot sites to offer extended learning time opportunities for children to practice and further develop their reading skills. The letter to literacy leaders will assist the Department in developing and planning quality summer pilot sites. It will be sent to at least one literacy coalition in every state with priority given to those sites in E.Z.s and E.C.s, as well as those communities that have signed on to the proposed Voluntary National Test. The voluntary request for information from the America Reads Federal Work Study programs and the President's Coalition for the America Reads Challenge members will be posted on the web to allow pilot sites to be able to utilize their resources.

Additional Information: In order to enable America Reads pilot sites to be prepared for their summer reading programs and take full advantage of the Department of Education's assistance and the experience of other America Reads Challenge participants, this information must be collected and posted on the world wide web as soon as possible. Therefore, ED is requesting approval by January 13, 1998.

Frequency: One time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,063.
Burden Hours: 64.

[FR Doc. 98–996 Filed 1–14–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Public Hearings on a Comprehensive National Energy Strategy

AGENCY: Office of Policy and International Affairs, U.S. Department of Energy.

ACTION: Notice of Public Hearing.

SUMMARY: The U.S. Department of Energy is announcing a series of public hearings to solicit input from state and local officials, utility representatives, industry representatives, public interest groups and other interested parties in the development of a statutorily required national energy policy plan, hereinafter referred to as the ''Comprehensive National Energy Strategy'' or ''Strategy''. The Department also invites interested parties to submit written comments for use in developing the Strategy.

Dates and Locations:

Houston, Texas. February 12, 1998. 1:00 p.m. to 5:00 p.m. (Venue TBD)
Davis, California. February 13, 1998. 8:30 a.m. to 12:30 p.m. (Venue TBD)
Detroit, Michigan. February 17, 1998. 1:00 p.m. to 5:00 p.m. (Venue TBD)
Washington, D.C. February 19, 1998. 1:00 p.m. to 5:00 p.m. (Venue TBD)

ADDRESSES: Written comments may be sent to the U.S. Department of Energy, Office of Policy and International Affairs, (PO–4), 1000 Independence Avenue SW, Washington, D.C. 20585, ATTN: CNES–Hearings. Written comments and input are encouraged via the INTERNET at http://www.eren.doe.gov.

FOR FURTHER INFORMATION CONTACT: For questions regarding the public hearings, participation or written submissions, please visit the website at http://www.eren.doe.gov or send fax inquiries to CNES-HEARINGS at 202–586–4025.

SUPPLEMENTARY INFORMATION: Section 801 of the Department of Energy Organization Act of 1977 requires the President to submit a National Energy Policy Plan to Congress. The President plans to submit a National Energy Policy Plan to Congress in 1998. Section 801 also states that the President shall

''seek the active participation by regional, State, and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy are taken into account in the formulation and review of such proposed Plan.''

The hearings are expected to facilitate public input on a broad range of energy issues with major regional, national and international impacts including:

- Reducing vulnerability of the U.S. economy to disruptions in energy supplies;
- Producing and using energy in efficient and environmentally responsible ways, including strategies for meeting U.S. greenhouse gas emission reductions proposed in December 1997 at Kyoto, Japan;
- Promoting international cooperation in energy use and supply to further U.S. economic, environmental, and security goals; and
- Maintaining a diverse set of energy options, particularly for the longer-term, to ensure adequate, clean energy at reasonable costs.

Participants wishing to speak at the hearings must register on-site. The speaker registry will open one-half hour before each hearing and will close one-half hour after the hearing begins. In addition, a website has been identified both to accept comments and to distribute information on the Strategy as it is developed.

Issued in Washington D.C. on January 9, 1998.

Robert W. Gee,

Assistant Secretary for Policy and International Affairs, U.S. Department of Energy.

[FR Doc. 98–1058 Filed 1–14–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy

Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy as amended and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the Government of the United States of America and the European Atomic Energy Community (EURATOM).

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following: RTD/EU(SD)–1 for the retransfer of irradiated graphite, fuel spheres, composed of 32,570.88 grams of enriched uranium, containing 5,459.10 grams of the isotope U–235 (enriched to 16.76 percent) from Switzerland to Germany. The fuel has been irradiated in research experiments at the PROTEUS critical experiment facility in Switzerland and will be returned to Forschungszentrum, Julich, Germany for storage. The material was transferred from Germany to Switzerland in 1990, under RTD/SD(EU)–59.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 9, 1998.

For the Department of Energy.

Cherie P. Fitzgerald,

Director, International Policy and Analysis Division Office of Arms Control and Nonproliferation.

[FR Doc. 98–1057 Filed 1–14–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2612]

Central Maine Power Company; Notice of Authorization for Continued Project Operation

January 9, 1998.

On December 28, 1995, Central Maine Power Company, licensee for the Flagstaff Project No. 2612, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2612 is located on the Dead River in Franklin and Somerset Counties, Maine.

The license for Project No. 2612 was issued for a period ending December 31, 1997. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), require's the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administration Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2612 is issued to Central Maine Power Company for a period effective January 1, 1998, through December 31, 1998, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 1, 1999, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless then Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Central Maine Power Company is authorized to continue operation of the Flagstaff Project No. 2612 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–986 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–109–000]

CNG Transmission Corporation; Notice of Section 4 Filing

January 9, 1998.

Take notice that on January 6, 1998, CNG Transmission Corporation (CNGT), tendered for filing, pursuant to section 4 of the Natural Gas Act, a notice of termination of service on certain specified uncertificated gathering pipeline facilities in Jefferson County, Pennsylvania. CNGT states that it will abandon these facilities by sale to CNG Producing Company effective thirty days from the date of filing of the instant notice.

CNGT states that no contract for transportation of service with CNG will be terminated because delivery of gas will occur further downstream of the current delivery points.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. Under section 154.210 of the Commission's regulation all such motions or protests should be filed on or before January 20, 1998. Protests appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–980 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1305–000]

Consumers Energy Company; Notice of Filing

January 9, 1998.

Take notice that on December 22, 1997, Consumers Energy Company tendered what it described as an offer of settlement in Docket No. ER97–1510–000. The Commission is treating this filing as a new and distinct filing, and has therefore assigned a new docket number, ER98–1305–000, to it.

Consumers Energy Company describes its filing as resolving issues arising from Consumers' earlier filing of unexecuted agreements related to Network Integration Transmission Service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 20, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–992 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–363–003]

Egan Hub Partners, L.P.; Notice of Compliance Filing

January 9, 1998.

Take notice that on December 31, 1997, Egan Hub Partners, L.P., (Egan Hub) tendered for filing as part of tits FERC Gas Tariff, Original Volume No. 1, tariff sheets to the filing, with an effective date of November 3, 1997.

Egan Hub states that the filing is being made because it has recently come to the attention of Egan Hub that the tariff sheets submitted as part of the compliance filing did not correspond to the earlier versions of Egan Hub's tariff. Egan Hub provides notice by the filing of its intent to withdraw the November 19, 1997 compliance filing in its entirety and submit the instant filing in compliance with the October 30 Letter Order.

Egan Hub states that in order to reflect all the changes made to comply with the October 30, 1997 Letter Order, Egan Hub is refiling its entire tariff in both a paper version and in electronic format.

Egan Hub states that a copy of the letter is being served on all parties in Docket No. RP97–363–000, and because of the voluminous nature of the tariff, it is not being served on parties.

Any person desiring to protest the filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining appropriate action, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–982 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–346–013]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 9, 1998.

Take notice that on January 7, 1998, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff the following revised tariff sheets, with an effective date of August 1, 1997:

3rd Sub Eighth Revised Sheet No. 5
3rd Sub Ninth Revised Sheet No. 6
4th Sub Fifth Revised Sheet No. 7
4th Sub First Revised Sheet No. 7A
3rd Sub Original Sheet No. 7B
3rd Sub Seventh Revised Sheet No. 8
Substitute Fourth Revised Sheet No. 10
2nd Substitute First Rev Sheet No. 225
2nd Substitute First Rev Sheet No. 256

Equitrans states that this filing is made in compliance with the Order on Rehearing, Clarification and Compliance Filing issued December 24, 1997 (the December 24 Order) in which the Commission held that the tariff sheets previously accepted for September 1, effectiveness were accepted effective August 1. The December 24 Order required Equitrans to refile the affected tariff sheets with an August 1, 1997 effective date within fifteen days of the Order.

Equitrans states that the rate sheets previously accepted by the Commission for September 1, 1997 effectiveness are included in the filing and bear an effective date of August 1, 1997. In addition, Equitrans proposes to revise the tariff sheets containing section 27.3 of the General Terms and Conditions to indicate the commencement of recovery of stranded costs beginning on August 1,

1997. Equitrans also states that certain other tariff sheets with it filed previously for September 1, 1997 effectiveness are mooted by the instant filing.

Equitrans states that copies of this rate filing were served on the parties to this proceeding, as well as Equitrans' jurisdictional customers and interested state commissions.

Any person desiring to protest the filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining appropriate action, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lindwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–983 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–610–000]

Granite State Gas Transmission, Inc.; Notice on Oral Argument

January 9, 1998.

In accordance with its motion of December 23, 1997, the Public Advocate of the State of Maine (Public Advocate) is given ten minutes to present its arguments at the oral argument scheduled for January 15, 1998 in this proceeding. The Public Advocate may reserve a portion of this time for rebuttal.

The time allotted to the Public Advocate herein is separate from and in addition to the time previously allotted to the supporters and opponents of the project in our notice issued December 10, 1997.

The Public Advocate must file with the Commission by 3 p.m. on January 12, 1998, the name of the person who will represent the Public Advocate at oral argument.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–991 filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2061]

Idaho Power Company; Notice of Authorization for Continued Project Operation

January 9, 1998.

On December 20, 1995, Idaho Power Company, licensee for the Lower Salmon Falls Project No. 2061, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2061 is located on the Snake River in Gooding and Twin Falls Counties, Idaho.

The license for Project No. 2061 was issued for a period ending December 23, 1997. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2061 is issued to Idaho Power Company for a period effective December 24, 1997, through December 23, 1998, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before December 24, 1998, notice is hereby given that, pursuant to 18 CFR 16.18(c), and annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Idaho Power Company is authorized to continue operation of the Lower Salmon Falls Project No. 2061 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–989 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR98–5–000]

LG&E Natural Pipeline Company; Notice of Petition for Rate Approval

January 9, 1998.

Take notice that on December 31, 1997, LG&E Natural Pipeline Company (LG&E) filed pursuant to section 284.123(b)(2) of the Commission's regulations a petition for rate approval requesting that the Commission approve as fair and equitable rates for NGPA section 311 transportation services the following: (i) For firm transportation service, a demand charge not to exceed $2.0893 and a variable charge not to exceed $0.0129 per MMBtu; (ii) for interruptible transportation service, a volumetric rate not to exceed $0.0186 per MMBtu; and (iii) for storage services, those established by contract between LG&E and its customers.

LG&E's petition states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA operating within the State of New Mexico. According to its petition, LG&E offers both firm and interruptible transportation services in interstate commerce under section 311 of the NGPA. It also offers storage services under section 311.

LG&E's currently effective rates for section 311 services were established by a Settlement in Docket Nos. PR94–21–000, *et al.*, which was approved on August 6, 1996. 76 FERC ¶ 61,181 (1996). LG&E's currently effective maximum firm transportation rate under section 311 consists of a maximum demand charge of $2.4746 and a maximum variable charge of $0.0117 per MMBtu; the current maximum interruptible transportation rate is $0.0930 per MMBtu. The rates for storage services LG&E offers under section 311 are now ''market-based'',

and are established through arm's length negotiations.

Article IX of the Settlement approved on August 6, 1996 required LG&E to file an application for rate approval pursuant to section 284.123(b)(2) on or before December 31, 1997 to justify its then current rates or establish new rates, and to demonstrate that the rates thus proposed are fair and equitable. LG&E states that the purpose of the petition for rate approval it has filed in the proceeding is to comply with Article IX of the Settlement and the August 6, 1996 order.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, LG&E's proposed rates will be fair and equitable. The Commission may, prior to the expiration of the 150 day period, extend the time for action or may institute a proceeding to afford parties an opportunity for written comments and for oral presentation of views, data and arguments. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All motions must be filed with the Secretary of the Commission on or before January 26, 1998. The petition for rate approval is on file with the Commission and is available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–984 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–25–002]

West Texas Gas Inc.; Notice of Proposed Changes in FERC Gas Tariff

January 9, 1998.

Take notice that on December 11, 1997, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, in compliance with the Commission's November 26, 1997 order in this proceeding, the following tariff sheets, to be effective December 1, 1997:

Substitute First Revised Sheet No. 5
Substitute First Revised Sheet No. 7
Substitute First Revised Sheet No. 9

WTG states that these tariff sheets remove the negotiated rate procedures from its tariff, as required by the November 26, 1997 order. In the November 26 order, the Commission suspended the effectiveness of WTG's proposed tariff changes until May 1, 1998.

Any person desiring to protest said filing, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 16, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the Protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–981 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. DR98–7–000, et al.]

Georgia Power Company, et al. Electric Rate and Corporate Regulation Filings

January 8, 1998.

Take notice that the following filings have been made with the Commission:

1. Georgia Power Company

[Docket No. DR98–7–000]

Take notice that on November 18 1997, Georgia Power Company, filed a request for approval for accounting purposes only, of certain depreciation-related accounting adjustments implemented by the Company in 1995 and 1996. The proposed adjustments were approved for retail purposes by the Georgia Public Service Commission.

Comment date: January 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Nantahala Power & Light Company

[Docket No. DR98–9–000]

Take notice that on November 19, 1997, Nantahala Power & Light Company, filed a request for approval of depreciation rates for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed adjustments were approved for retail purposes by the North Carolina Utilities Commission effective January 1, 1996. Nantahala Power & Light Company requests that the Commission allow the proposed depreciation rates to become effective as of January 1, 1996 also.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Texas-New Mexico Power Company

[Docket No. ER98–1031–000]

Take notice that on December 10, 1997, Texas-New Mexico Power Company, tendered for filing a letter approving application for membership in the Western Systems Power Pool (WSPP).

Copies of the filing were served upon the New Mexico Public Utility Commission and Public Utility Commission of Texas, and all WSPP members.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Company

[Docket No. ER98–1034–000]

Take notice that on December 16, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the ''CSW Operating Companies'') submitted for filing a service agreement under which the CSW Operating Companies will provide transmission service to Avista Energy, Inc. (Avista), Entergy Power Marketing Corp. (Entergy), and Electric Clearinghouse, Inc. (ECI) in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies also submitted a notice of cancellation for each firm point-to-point transmission service agreement.

The CSW Operating Companies state that the filing has been served on ECI, Entergy, Avista, and the Public Utility Commission of Texas.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER98–1035–000]

Take notice that on December 11, 1997, Southern California Edison Company (Edison), tendered for filing the Authorized Representatives' Procedures For Post-Restructuring Operations And Accounting (Procedures), and a Notice of Cancellation of various rate schedules with the City of Anaheim. The Procedures address issues relating to the operation of the Independent System Operator (ISO) and Power Exchange.

To the extent necessary, Edison seeks waiver of the 60 day prior notice requirement and requests that the Commission assign to the Procedures an effective date concurrent with the date the ISO assumes operational control of Edison's transmission facilities, which is expected to be January 1, 1998.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER98–1037–000]

Take notice that on December 11, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission executed form Service Agreements between NMPC and multiple parties (Purchasers). The Service Agreements specify that the Purchasers have signed on to and have agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and the Purchasers to enter into separately scheduled transactions under which NMPC will sell to the Purchasers capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence for each Purchaser.

NMPC is: (a) Generally requesting an effective date of December 1, 1997, for the agreements, and (b) requesting waiver of the Commission's notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission, and the companies included in a Service List enclosed with the filing.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southwestern Public Service Co.

[Docket No. ER98–1038–000]

Take notice that on December 11, 1997, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with UtiliCorp United, Inc., (UtiliCorp). This umbrella service agreement provides for Southwestern's sale and UtiliCorp's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Additional Signatories to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER98–1039–000]

Take notice that on December 11, 1997, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the LLC, a completed membership application for Entergy Power Marketing Corporation, allowing Entergy Power Marketing Corporation to become a member. PJM requests the effective date to be the day after the filing was received by FERC.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER98–1041–000]

Take notice that on December 11, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc. under Rate GSS.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Consumers Energy Company

[Docket No. ER98–1042–000]

Take notice that on December 11, 1997, Consumers Energy Company (CECo), tendered for filing Service Agreements for Network Integration Transmission Service and Network Operating Agreements for the following customers:

Martin Marietta Magnesia Specialties
Georgia-Pacific Corporation
Keeler Brass Company

These filings were made pursuant to CECo's Open Access Transmission Tariff and the Michigan Public Service Commission retail direct access program. CECo requests an effective dates of November 18, 1997.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Deseret Generation & Transmission Co-operative

[Docket No. ER98–1043–000]

Take notice that on December 10, 1997, Deseret Generation & Transmission Co-operative (Deseret), tendered for filing a proposed rider to its Supplement No. 6, to Service Agreement No. 6, under FERC Electric Tariff, Original Volume No. 1. The proposed rider would result in a rate decrease in accordance with the provisions of the current rate schedules contained in Service Agreement No. 6, under FERC Electric Tariff Original Volume No. 1.

The proposed rider is being filed in order to implement provisions of the current rate schedules contained in Service Agreement No. 6, which are already on file with the Commission. The current rate schedules contained in Service Agreement No. 6 are the product of a comprehensive restructuring of Deseret's financial obligations.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Orange and Rockland Utilities, Inc.

[Docket No. ER98–1044–000]

Take notice that on December 12, 1997, Orange and Rockland Utilities, Inc. (Orange and Rockland), filed a Service Agreement between Orange and Rockland and Plum Street Energy Marketing (Customer). This Service Agreement specifies that Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996, in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of November 25, 1997, for the Service Agreement. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota Company), Northern States Power Company (Wisconsin Company)

[Docket No. ER98–1045–000]

Take notice that on December 12, 1997, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and Cinergy Services, Inc., as Agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc. (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff Original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on November 14, 1997.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Central Maine Power Company

[Docket No. ER98–1046–000]

Take notice that on December 12, 1997, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Orange & Rockland Utilities. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Duquesne Light Company

[Docket No. ER98–1047–000]

Take notice that December 12, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated December 8, 1997, with American Municipal Power—Ohio under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds American Municipal Power—Ohio as a customer under the Tariff. DLC requests an effective date of December 8, 1997, for the Service Agreement.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Company

[Docket No. ER98–1048–000]

Take notice that on December 12, 1997, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with PacifiCorp Power Marketing, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Central Maine Power Company

[Docket No. ER98–1049–000]

Take notice that on December 12, 1997, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Rainbow Energy Marketing Corporation. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. FirstEnergy System

[Docket No. ER98–1050–000]

Take notice that on December 12, 1997, FirstEnergy System, tendered for filing Service Agreements to provide Non-Firm Point-to-Point Transmission Service for AYP Energy, Incorporated, Cinergy Services, Incorporated, MidCon Power Services Corporation, Northeast Utilities Service Company, and Virginia Electric and Power Company, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective date under the Service Agreements is December 1, 1997.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Northern Indiana Public Service Company

[Docket No. ER98–1051–000]

Take notice that on December 12, 1997, Northern Indiana Public Services Company (Northern), filed a Service Agreement pursuant to its Power Sales Tariff with PP&L, Inc.

Copies of this filing have been sent to PP&L, Inc., to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Northern Indiana Public Service Company

[Docket No. ER98–1052–000]

Take notice that on December 12, 1997, Northern Indiana Public Services Company (Northern), filed a Service Agreement pursuant to its Power Sales Tariff with Tenaska Power Services Company.

Copies of this filing have been sent to Tenaska Power Services Company, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER98–1053–000]

Take notice that on December 12, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Southern Company Services under Rate GSS.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. PJM Interconnection, L.L.C.

[Docket No. ER98–1054–000]

Take notice that on December 12, 1997, PJM Interconnection, L.L.C. (PJM), tendered for filing executed service agreements for point-to-point service under the PJM Open Access Tariff with Enron Power Marketing, Inc., and South Jersey Energy Company.

Copies of this filing were served upon the parties to the service agreements and the regional transmission owners in PJM.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Merchant Energy Group of the Americas, Inc.

[Docket No. ER98–1055–000]

Take notice that on December 12, 1997, Merchant Energy Group of the Americas, Inc. (MEGA), applied to the Commission for acceptance of MEGA Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain Commission Regulations.

MEGA intends to engage in wholesale electric power and energy purchases and sales as a marketer.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Wisconsin Public Service Corporation

[Docket No. ER98–1056–000]

Take notice that on December 12, 1998, Wisconsin Public Service Corporation (WPSC), tendered for filing an amendment to its February 22, 1993, Agreement with the City of Marshfield concerning the ownership and operation of combustion turbine generation. The amendment implements a revision to the capacity rating of the West Marinette Unit.

Wisconsin Public Service requests waiver of the Commission's Regulation to permit the amendment to become effective on January 1, 1998.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. California Independent System Operator Corporation

[Docket No. ER98–1057–000]

Take notice that on December 12, 1997, the California Independent System Operator Corporation (ISO), tendered for filing a Responsible

Participating Transmission Owner Agreement executed by the ISO and Pacific Gas and Electric Company for approval by the Commission.

The ISO states that this filing has been served on all parties listed on the official service list in the above referenced dockets, including the California Public Utilities Commission.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. California Independent System Operator Corporation

[Docket No. ER98–1058–000]

Take notice that on December 12, 1997, the California Independent System Operator Corporation (ISO), tendered for filing a Responsible Participating Transmission Owner Agreement executed by the ISO and Southern California Edison Company for approval by the Commission.

The ISO states that this filing has been served on all parties listed on the official service list in the above referenced dockets, including the California Public Utilities Commission.

Comment date: January 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1020 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. ER97–905–002, et al.]

Pacific Gas & Electric Company, et al. Electric Rate and Corporate Regulation Filings

January 9, 1998.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas & Electric Company

[Docket No. ER97–905–002]

Take notice that on December 15, 1997, Pacific Gas & Electric Company, tendered for filing proposed revisions to the principles for TELSA-Midway Transmission Service.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Northeast Utilities Services Company

[Docket No. ER98–197–001]

Take notice that on December 18, 1997, Northeast Utilities Company, tendered for filing its refund report in the above-referenced docket.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Houston Lighting & Power Company

[Docket No. ER98–950–000]

Take notice that on December 10, 1997, Houston Lighting & Power Company, tendered for filing a Notice of withdrawal of its Service Agreement in the above-referenced docket.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Duquesne Light Company

[Docket No. ER98–1060–000]

Take notice that on December 15, 1997, Duquesne Light Company (DLC), filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated November 15, 1997, with Wheeled Electric Power Co., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds Wheeled Electric Power Co., as a customer under the Tariff. DLC requests an effective date of November 15, 1997, for the Service Agreement.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER98–1061–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Tampa Electric Company

[Docket No. ER98–1062–000]

Take notice that on December 15, 1997, Tampa Electric Company (Tampa Electric), tendered for filing a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and the Tennessee Valley Authority (TVA). The Contract provides for the negotiation of individual transactions in which Tampa Electric will sell power and energy to TVA.

Tampa Electric proposes an effective date of December 15, 1997, for the Contract, or, if the Commission's notice requirement cannot be waived, the earlier of February 13, 1998, or the date the Contract is accepted for filing.

Copies of the filing have been served on TVA and the Florida Public Service Commission.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Union Electric Company

[Docket No. ER98–1064–000]

Take notice that on December 15, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between UE and Northern States Power Company (NSP). UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to NSP pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER98–1065–000]

Take notice that on December 15, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between UE and Northern States Power Company and Williams Energy Services Company. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER98–1066–000]

Take notice that on December 15, 1997, Wisconsin Public Service Corporation (WPSC), tendered for filing a letter agreement terminating the Partial Assignment Agreement between WPSC and Morgan Stanley Capital Group, Inc.; a letter of consent to the termination executed by Oconto Electric Cooperative (OEC); and a request to terminate a partial requirements service agreement between WPSC and OEC under which no service has yet been provided. The terminations are requested to become effective on November 30, 1997.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. The Dayton Power and Light Co.

[Docket No. ER98–1067–000]

Take notice that on December 15, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements establishing American Municipal Power-Ohio, Inc., DTE Energy Trading, Inc., PP&L, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon establishing American Municipal Power-Ohio, Inc., DTE Energy Trading, Inc., PP&L, Inc., and the Public Utilities Commission of Ohio.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. MidAmerican Energy Company

Docket No. ER98–1068–000

Take notice that on December 15, 1997, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission three Non-Firm Transmission Service Agreements with American Electric Power Service Corporation (AEPSC), dated November 24, 1997, CNG Power Services Corporation (CNG), dated November 24, 1997, and NP Energy Inc. (NPE), dated November 24, 1997, and Entergy Power Marketing Corp. (Entergy), dated December 4, 1997, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of November 24, 1997, for the Agreements with AEPSC, CNG and NPE, and December 4, 1997, for the Agreement with Entergy and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on AEPSC, CNG, NPE, Entergy, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER98–1069–000]

Take notice that on December 15, 1997, PECO Energy Company (PECO) filed under § 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction Agreement dated November 20, 1997, with Cinergy Resources, Inc. (CRI), under PECO's FERC Electric tariff Original Volume No. 1 (Tariff). The Transaction Agreement is for a term of thirteen (13) months.

PECO requests an effective date of December 1, 1997, for the Transaction Agreement.

PECO states that copies of this filing have been supplied to CRI and to the Pennsylvania Public Utility Commission.

Comment date: Janaury 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Northwestern Public Service Company

[Docket No. ER98–1070–000]

Take notice that on December 15, 1997, Northwestern Public Service Company (NWPS), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Services by and between Northwestern Public Service and Tenaska Power Services Co.

Copies of the filing were served upon NWPS's wholesale electric customers, interested public bodies, and all parties previously requesting copies.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. San Diego Gas & Electric Company

[Docket No. ER98–1071–000]

Take notice that on December 15, 1997, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.13, Service Agreement (Agreement), with ConAgra Energy Services (ConAgra), for Point-to-Point Transmission Service under SDG&E's Open Access Transmission Tariff (Tariff), filed in compliance with FERC Order No. 888A.

SDG&E filed the executed Service Agreement with the Commission in compliance with applicable Commission Regulations. SDG&E also provided Sheet No. 114 (Attachment E) to the Tariff, which is a list of current subscribers. SDG&E requests waiver of the Commission's notice requirement to permit an effective date of February 16, 1998.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Maine Electric Power Company Inc.

[Docket No. ER98–1072–000]

Take notice that on December 15, 1997, Maine Electric Power Company, Inc. (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with The Cincinnati Gas & Electric Company, PSI Energy, Inc. (collectively Cinergy Operating Companies), and Cinergy Services, Inc., as agent for and on behalf of the Cinergy Operating Companies. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. FirstEnergy System

[Docket No. ER98–1073–000]

Take notice that on December 15, 1997, FirstEnergy System filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for AES Power, Incorporated, CNG Power Services Corporation, The Dayton Power and Light Company, Equitable Power Services Company, Federal Energy Sales, Incorporated, Koch Energy Trading, Incorporated, Minnesota Power & Light Company, New York State Electric & Gas Corporation, NorAm Energy Services, Incorporated, Pennsylvania Power & Light, Incorporated, Rainbow Energy Marketing Corporation and Wabash Valley Power Association, Incorporated, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective date under

the Service Agreements is December 1, 1997.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Electric Power Co.

[Docket No. ER98–1074–000]

Take notice that on December 15, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Short Term Firm Transmission Service Agreement and a non-firm Transmission Service Agreement between itself and Tenaska Power Services Company (Tenaska). The Transmission Service Agreements allow Tenaska to receive transmission services under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Tenaska, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: Janaury 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. PECO Energy Company

[Docket No. ER98–1075–000]

Take notice that on December 15, 1997, PECO Energy Company (PECO), filed a Service Agreement dated December 1, 1997, with Allegheny Energy Solutions, Inc. (AES), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds AES as a customer under the Tariff.

PECO requests an effective date of December 1, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to AES and to the Pennsylvania Public Utility Commission.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. PECO Energy Company

[Docket No. ER98–1076–000]

Take notice that on December 15, 1997, PECO Energy Company (PECO), filed a Service Agreement dated December 8, 1997, with GPU Advanced Resources, Inc. (GAR), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds GAR as a customer under the Tariff.

PECO requests an effective date of December 8, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to GAR and to the Pennsylvania Public Utility Commission.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Power and Light Company

[Docket No. ER98–1077–000]

Take notice that on December 15, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing executed Form of Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service, establishing Tenaska Power Services Co., as a point-to-point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of December 5, 1997, and; accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER98–1078–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Market Responsive Energy Inc., under Rate GSS.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Louisville Gas and Electric Company

[Docket No. ER98–1079–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Hoosier Energy Rural Electric Coop Inc., under Rate GSS.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company

[Docket No. ER98–1080–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Short-Term Firm Point-To-Point Transmission Service Agreement between LG&E and Virginia Power under LG&E's Open Access Transmission Tariff.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Louisville Gas and Electric Company

[Docket No. ER98–1081–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Short-Term Firm Point-to-Point Transmission Service Agreement between LG&E and Florida Power and Light Company (FP&L), under LG&E's Open Access Transmission Tariff.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. PECO Energy Company

[Docket No. ER98–1109–000]

Take notice that on December 17, 1997, PECO Energy Company (PECO), filed revised sheets to its FERC Electric Tariff Original Volume No. 1 (the Tariff). The revised sheets contain modifications to certain rates, terms and conditions of the Tariff, which would enable PECO to sell, assign or transfer rights. PECO requested an effective date of December 18, 1997.

PECO states that copies of its filing have been served on the Pennsylvania Public Utility Commission and on all customers who have executed service agreements under the Tariff.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. The Dayton Power and Light Company

[Docket No. ER98–1292–000]

Take notice that The Dayton Power and Light Company (Dayton) on December 19, 1997, tendered for filing a revised Open Access Transmission Tariff. Dayton requests an effective date of December 19, 1997.

Copies of this filing were served on customers under the tariff and the Public Utilities Commission of Ohio.

Comment date: January 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. United States Department of Energy—Bonneville Power Administration

[Docket No. NJ97–3–002]

Take notice that on December 19, 1997, the Bonneville Power Administration of the United States Department of Energy tendered its

compliance filing in response to earlier Commission orders in this proceeding.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. United States Department of Energy

[Docket No. NJ98–1–000]

Take notice that on December 31, 1997, the United States Department of Energy, Western Area Power Administration (Western), submits its open-access transmission service tariff terms and conditions with the Federal Energy Regulatory Commission (Commission). In accordance with Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, and 18 CFR 35.28(e), Western is requesting a declaratory order that its voluntary transmission tariff meets or exceeds the requirements of the Commission's Order No. 888 (Final Rule on Open Access and Stranded Costs). In addition, Western is seeking a waiver from requirements of the Commission's Order No. 888, which would require Western to act contrary to the laws which govern its activities. Western is also seeking an exemption in lieu of paying a filing fee applicable to petitions for declaratory orders because it is an agency of the United States Department of Energy, and therefore exempt from filing fees, as provided in 18 CFR 381.012(a), 381.108(a), and 381.302)(c).

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. United States Department of Energy, Southwestern Power, Administration Transmission Service Terms and Conditions

[Docket No. NJ98–2–000]

Take notice that the Southwestern Power Administration (Southwestern), on December 31, 1997, tendered for filing for Commission review of Southwestern's open access transmission terms and conditions. These transmission terms and conditions were the subject of Southwestern administrative proceedings that preceded adoption of such terms and conditions.

Southwestern tendered for filing its open access transmission tariff terms and conditions with a Petition for Declaratory Order that said terms and conditions meet or exceed the Commission's open access policies, and are consistent with the reciprocity compliance principles of the Commission's final rule on non-discriminatory open access transmission service. Southwestern has developed rates related to such terms and conditions, which are in the approval process, and are expected to be implemented January 1, 1998. Notice of such rates will be published in the **Federal Register** upon their receiving interim approval. Subsequent to interim approval, Southwestern's wholesale power and transmission rates will be filed with the Commission with a request for confirmation and approval on a final basis.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Colstrip Energy, Limited Partnership

[Docket No. QF84–377–009]

On December 18, 1997, Colstrip Energy, Limited Partnership (Applicant), 1087 W. River Street, Suite 200, Boise, Idaho 83702 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility, is located in Rosebud County, Montana. The Commission most recently recertified the facility in *Colstrip Energy Limited Partnership,* 74 FERC ¶ 62,072 (1996). The instant application for recertification is to reflect changes in the upstream ownership of the facility and in the fuel supply for the facility.

Comment date: 15 days after the date of publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1021 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Conduit Exemption

January 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption (Tendered Notice).

b. *Project No.:* 11610–000.

c. *Date filed:* November 7, 1997.

d. *Applicant:* Gary R. Hobbs.

e. *Name of Project:* Cherry Grove Project.

f. *Location:* At the Crab Creek Canyon, in Utah County, Utah.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Gary R. Hobbs, H.C. 13, Box 520, Fairview, UT 84629, (801) 873–3343.

i. *FERC Contact:* Robert W. Bell (202) 219–2806.

j. *Description of Project:* The proposed project consists of: (1) A powerhouse that would be built on the City of Spanish Fork's 14-inch-diameter, ductile iron pipeline, with one generating unit having an installed capacity of 224-kW. The applicant would use all the power generated for a proposed housing development. The average annual generation would be 1,726,000 kWh.

k. Under section 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the date of this notice, and must serve a copy of the request on the applicant.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–985 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

January 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 2114–065.

c. *Date Filed:* December 17, 1997.

d. *Applicant:* Public Utility District No. 2 of Grant County, Washington.

e. *Name of Project:* Priest Rapids Project.

f. *Location:* On the Columbia River in Grant County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. Don Godard, Public Utility District No. 2 of Grant County, P.O. Box 878, Ephrata, WA 98823, (509) 754–3451.

i. *FERC Contact:* Timothy Welch, (202) 219–2666.

j. *Comment Date:* January 28, 1998.

k. *Description of Amendment:* Grant County Public Utility District No. 2 (licensee) requests authorization to install a spillway deflector at the Wanapum Development for the passage of downstream migrant fishes at Wanapum Dam. The deflector will be constructed at Wanapum Dam Spillway 12 for the further development of a device to reduce the level of dissolved gases in the spilled water. A prototype spillway deflector was installed in spillway bay 2 in the spring of 1996. Based on the data collected in 1996, the prototype spillway deflector produced total dissolved gas levels of saturation lower than water passing through spill bays not equipped with the prototype deflector. This second prototype deflector will consist of a triangular concrete section which is located 32 feet below the crest of the spillway. The deflector's horizontal surface will be approximately 12 feet and will run the full width of the spillway slot, approximately 50 feet.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–987 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands (Development of Recreational Facilities)

January 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands (Development of Recreational Facilities).

b. *Project No.:* 2105–062.

c. *Date Filed:* September 4, 1997.

d. *Applicant:* Pacific Gas & Electric Company (PG & E).

e. *Name of Project:* Upper North Fork Feather River Project (Lake Almanor).

f. *Location:* The proposed recreation facilities would be located in and near the Almanor Campground on the southwestern shore of Lake Almanor.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Bill Zemke, Pacific Gas & Electric Company, Mail Code N11C, P.O. Box 770000, San Francisco, CA 94177, (415) 973–1646.

i. *FERC Contact:* J.K. Hannula, (202) 219–0116.

j. *Comment Date:* March 4, 1998.

k. *Description of the Application:* PG & E requests approval to permit the National Forest Service (FS) to reconstruct a marina containing 45 slips and a boat launch at Almanor Campground, Larsen National Forest. The FS also proposes to construct a new parking area, boat launch, and day use beach area at the campground, and paved fishing trails at the Canyon Dam day use facility.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly

from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–988 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

January 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 1025–020.

c. *Date Filed:* December 23, 1997.

d. *Applicant:* Safe Harbor Water Power Corporation.

e. *Name of Project:* Safe Harbor.

f. *Location:* On the Susquehanna River, in Lancaster County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Marshall J. Kaiser, President, Safe Harbor Water Power Corporation, One Powerhouse Road, Conestoga, PA 17516–9651, (717) 872–5441.

i. *FERC Contact:* James Hunter, (202) 219–2839.

j. *Comment Date:* February 27, 1998.

k. *Description of Application:* The Applicant proposes to raise the normal maximum level of Safe Harbor reservoir by 0.8 feet, from elevation 227.2 feet to elevation 228.0 feet above mean sea level. Raising the elevation can be accomplished operationally, and would not require any modification to project structures.

The higher level would benefit the project by maximizing the operating head and by providing 5,900 acre-feet of additional usable storage capacity for energy generation, under the normal daily peaking operation. The Applicant proposes to implement the increase in reservoir elevation over several years, if necessary, to minimize the potential effects of the increase on migrant shorebird usage of mudflat areas within the reservoir.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–990 Filed 1–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Rates—Notice of Order Approving New Power Rates on an Interim Basis

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order,

SUMMARY: The Deputy Secretary acting under Amendment No. 3 to Delegation Order No. 0204–108, dated November 10, 1993, has approved and placed in effect on an interim basis Rate Order No. SWPA–37 which provides for the following Integrated System Rate Schedules:

Rate Schedule P–98, Wholesale Rates for Hydro Peaking Power

Rate Schedule NFTS–98, Wholesale Rates for Point-to-Point and Network Transmission Service

Rate Schedule EE–98, Wholesale Rate for Excess Energy

The rate schedules supersede the existing rate schedules shown below:

Rate Schedule P–90A, Peaking Power—(superseded by P–98)

Rate Schedule P–90B, Peaking Power through Oklahoma Utility Companies and/or Oklahoma Municipal Power Authority—(no longer applicable)

Rate Schedule F–90B, Firm Power through Oklahoma Utility Companies—(no longer applicable)

Rate Schedule TDC–90, Transmission Service—(superseded by NFTS–98)

Rate Schedule IC–90, Interruptible Capacity—(no longer applicable)

Rate Schedule EE–90, Excess Energy—(superseded by EE–98)

DATES: The effective period for the rate schedules specified in Rate Order No. SWPA–37 is January 1, 1998, through September 30, 2001.

FOR FURTHER INFORMATION CONTACT: Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101–1619.

SUPPLEMENTARY INFORMATION: Southwestern Power Administration's (Southwestern) Administrator has determined, based on the November 1997 Integrated System Current Power Repayment Study, that existing rates will not satisfy cost recovery criteria specified in Department of Energy Order No. RA 6120.2 and Section 5 of the Flood Control Act of 1944. The Administrator prepared a November 1997 Integrated System Revised Power Repayment Study based on additional annual revenue of $1,805,772 beginning January 1, 1998, which increases ultimate annual revenues from $96,344,200 to $98,149,972, in part to recover increases in Corps of Engineers and Southwestern Federal investments. Southwestern has changed the rate structure to conform with the intent of the Federal Energy Regulatory Commission's (FERC) Order No. 888; consequently, the actual rate impact on each customer will vary based on the type of service requested and provided. Also, a credit, specifically designed for each individual customer, will apply

against the purchased power adder component of the rate schedules to refund both excess revenues and interest accruing on such revenues in the purchased power deferral account during recent years of favorable water conditions. This credit is intended to equalize the customer's average purchased power adder cost. These credits will be provided to each applicable customer over a 6-month service period beginning January 1, 1998. The customer specific credit, along with the Administrator's discretionary purchased power adder adjustment, will offset the immediate impact of increasing the purchased power adder to 1.1 mills/kWh, except for those customers to which the purchased power adder does not currently apply. This rate proposal also includes a provision to continue and increase the Administrator's Discretionary Purchased Power Adder Adjustment, from up to $0.0005 to up to $0.0011 per kilowatthour as necessary, and to adjust the purchased power adder annually, at his/her discretion, under a formula-type rate, with notification to FERC.

Following review of Southwestern's proposal within the Department of Energy, I approved, Rate Order No. SWPA–37, on an interim basis through September 30, 2001, or until confirmed and approved on a final basis by FERC.

Dated: January 7, 1998.

Elizabeth A. Moler,

Deputy Secretary.

Order Confirming, Approving and Placing Increased Power Rate in Effect on an Interim Basis

[Rate Order No. SWPA–37]

January 1, 1998.

In the matter of: Southwestern Power Administration System Rates

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664, the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place into effect on an interim basis power and transmission rates, and delegated to the Federal Energy Regulatory Commission (FERC) on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744, revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates to the Under Secretary of Energy rather than the Deputy Secretary of Energy. This delegation was reassigned to the Deputy Secretary of Energy by Department of Energy (DOE) Notice 1110.29, dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89, dated August 3, 1989, and subsequent revisions. By Amendment No. 2 to Delegation Order No. 0204–108, effective August 23, 1991, 56 FR 41835, the Secretary of the Department of Energy revised Delegation Order No. 0204–108 to delegate to the Assistant Secretary, Conservation and Renewable Energy, the authority which was previously delegated to the Deputy Secretary in that Delegation Order. By Amendment No. 3 to Delegation Order No. 0204–108, effective November 10, 1993, 58 FR 59717, the Secretary of Energy revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates by delegating that authority to the Deputy Secretary of Energy. This rate order is issued by the Deputy Secretary pursuant to said Amendment to Delegation Order No. 0204–108. It is also made pursuant to the authorities as implemented in 10 CFR 903.

Background

FERC confirmation and approval of the following Integrated System (System) rate schedules was provided in FERC Docket No. EF90–4011–000 issued September 18, 1991, for the period October 1, 1990, through September 30, 1994:

Rate Schedule P–90A, Peaking Power—(superseded by P–98)
Rate Schedule P–90B, Peaking Power through Oklahoma Utility Companies and/or Oklahoma Municipal Power Authority—(no longer applicable)
Rate Schedule F–90B, Firm Power through Oklahoma Utility Companies— (no longer applicable)
Rate Schedule TDC–90, Transmission Service—(superseded by NFTS–98)
Rate Schedule IC–90, Interruptible Capacity—(no longer applicable)
Rate Schedule EE–90, Excess Energy—(superseded by EE–98)

These rate schedules were subsequently extended on an interim basis by the Deputy Secretary under the Rate Order No. and for the periods listed below:

Rate Order SWPA–29, October 1, 1994–September 30, 1995
Rate Order SWPA–32, October 1, 1995–September 30, 1996
Rate Order SWPA–34, October 1, 1996–September 30, 1997
Rate Order SWPA–35, October 1, 1997–March 31, 1998

Southwestern's November 1997 Current Power Repayment Study (PRS) indicated that the existing rates would not satisfy present financial criteria regarding repayment of investment in a 50-year period due, in part, to increasing Corps of Engineers (Corps) and Southwestern Federal investment. The Revised PRS indicated that an increase in annual revenues of $1,805,772 was necessary beginning in FY 1998 to accomplish System repayment in the required number of years. Accordingly, Southwestern developed proposed System rate schedules in the November 1997 Rate Design Study based on that additional revenue requirement.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, ''Procedures for Public Participation in Power and Transmission Rate Adjustment,'' has been followed in connection with the proposed rate adjustments. More specifically, opportunities for public review and comment on proposed System power rates during a 90-day period were announced by notice published in the **Federal Register** August 22, 1997, (62 FR 44670). A Public Information Forum was held September 4, 1997, in Tulsa, Oklahoma, and a Public Comment Forum was held October 9, 1997, also in Tulsa. Written comments were due by November 20, 1997. On August 25, 1997, Southwestern mailed a copy of the **Federal Register** Notice, making copies of the proposed rate schedules and supporting data for the August 1997 Power Repayment and Rate Design Studies available to customers and interested parties for review and comment during the formal period of public participation. In addition, and prior to the formal 90-day public participation process, Southwestern held a number of informal meetings with customer representatives during preparation of the August 1997 Current and Revised Power Repayment Studies and Rate Design Study. Southwestern personnel met informally with representatives of the Southwestern Power Resources Association (an organization representing many of Southwestern's customers) on four occasions and with the Oklahoma Municipal Power Authority (OMPA) member representatives once to explain the studies, answer questions, and

consider comments and suggestions concerning development of the proposed System rates. Further, Southwestern staff met with specific customer representatives following the Public Information and Comment Forums to discuss the results of the August 1997 Current and Revised Power Repayment Studies and Rate Design Study and how the proposals impacted these customers directly.

Following the conclusion of the comment period in November 1997, modifications to the August 1997 Power Repayment and Rate Design Studies and the proposed rate schedules were completed based on (1) Formal comments received, (2) finalization of the FY 1996 Southwestern Federal Power System (SWFPS) financial audit, and (3) resolution of a major power sales contract. The comments presented during the formal public participation process were considered, responses developed and, where deemed appropriate, incorporated into the studies. Once all comments had been carefully considered, the Administrator made the decision to submit the revised (November 1997) rate proposal for interim approval and implementation. Responses to major comments are contained herein. The proposed rate schedules resulting from these changes are designed to increase total annual revenues to a level sufficient to repay all costs by the 50th year.

Discussion

The rate schedules proposed by Southwestern for implementation increase ultimate annual revenue from $96,344,200, to $98,149,972, or 1.9 percent, which will satisfy cost recovery criteria outlined in Department of Energy (DOE) Order No. RA 6120.2 and Section 5 of the Flood Control Act of 1944, by increasing annual net revenues by $1,805,772, beginning January 1, 1998. This amount is less than the revenue level initially proposed in August 1997 due to changes made to (1) Correct errors in the August study cited within comments received and noted by staff review; (2) reflect the results of the FY 1996 financial audit that had been delayed (due to the Corps of Engineer's (Corps) switchover to a new financial management system); and (3) better show the impacts of specific power sales contract provisions. The following adjustments or corrections, which were not included in the August 1997 studies, lowered the level of increase needed:

1. Completion of the FY 1996 SWFPS audit. This audit was not finalized until September 1997 due to numerous problems with Corps' financial data for FY 1996. The Corps implemented a new financial system during FY 1996 within several of its district offices and numerous problems developed during retrieval of the 1996 financial data which significantly delayed preparation of financial statements and the financial audit. Southwestern incorporated the audited financial data for FY 1996 in its November 1997 Power Repayment Studies. This audited financial data resulted in a decrease in the level of revenues needed.

2. Reduction in the level of Service Charges due to resolution of a major power sales contract. Southwestern had been involved in power sales contract negotiations with a major customer for some time. Upon successful negotiation of a new power sales contract in August 1997, Southwestern lowered its estimate of transmission service charges to correspond with revised anticipated rate levels. This change also caused a decrease in the level of revenues needed.

3. Minor corrections to revenues to reflect effective dates of contract changes and implementation of rates for new services for specific customers. The corrections had both increasing and decreasing impacts on the revenues needed.

4. Minor revisions to estimates of revenues expected from facilities charges based on recently updated projections of future individual customer transmission system usage. These revisions had both increasing and decreasing impacts on the revenues needed also.

5. Adjusted revenues to include customer-specific purchased power credits not identified in the August 1997 PRS due to the unavailability of account data that determines the level of participation for each individual customer. Analysis of the individual customer account activity has been completed and specific purchased power revenue credits have been determined for those participating customers to place all such customers on an equal level.

Not included in the above adjustments are additional issues related to rate design. Southwestern has redesigned its rates for transmission service in accordance with the intent of FERC Order No. 888 on open transmission access. Most of the comments, concerns and requests for information have been related to Southwestern's proposed August 1997 Rate Design and Rate Schedules, and in particular, its charges for transmission service. In consideration of comments and suggested improvements to its rate design, Southwestern has made numerous changes to both its rate design and rate schedules. The following are changes made to Southwestern's August 1997 Rate Design and Rate Schedules: (The rationale for these changes is described in Southwestern's responses to major comments section.)

1. The revenue requirement and transmission capacity sales were changed based on the November 1997 Revised Power Repayment Study.

2. The Net Capacity or Energy Sales/Deliveries divisor on ancillary services was changed from the average 12 months' coincidental peak (CP) of the fifteen projects within Southwestern's control area to the capacity sales (billing units) associated with the customers who are anticipated to be taking the ancillary services.

3. The separate ancillary service charge for Energy Imbalance was deleted while the penalty provision for the service as proposed in the August 1997 Rate Design was retained.

4. The calculation of the per MW cost for providing generation for the two ancillary services, (1) Operational Reserves-Spinning and (2) Operational Reserves-Supplemental were revised to divide the projected generation expenses by the rated capacity of the generation rather than the 12 CP value.

5. Switchyard costs on the transmission side of the Corps' facilities that previously were included in generation have been reassigned to transmission.

6. Before allocating Transmission Expenses to Transformation, the costs for the Scheduling, System Control and Dispatch ancillary service have been removed.

7. An energy transmission loss analysis was completed and the energy loss percentage to be charged on transactions was reduced from 5 percent to 4 percent. Also, a determination was made to charge dollars for losses, based on a formula described in Rate Schedule NFTS–98, rather than have them scheduled/repaid with energy.

8. Southwestern will be providing secondary service, ''headroom,'' under its firm transmission service for both Federal and non-Federal power.

9. Southwestern will be offering Network Integration Transmission Service. The charge for this service will be based on the calculation specified by FERC in its Order No. 888 for this type of service.

In review, Southwestern is filing a revised rate adjustment plan for two reasons. These reasons include the need for a minor increase in the annual revenue requirements to satisfy cost recovery criteria and also the restructuring of rates to conform with the intent of FERC Order Nos. 888 and 888–A. The PRSs indicated that current revenue levels are insufficient, by approximately 1.9 percent, to repay the Federal investment within the repayment period. That increased requirement is due to increased investments for both the Corps of Engineers (Corps) hydroelectric projects and Southwestern's transmission system facilities. Some of the factors causing the Corps increases in project investments include a finalization of the Stockton cost allocation study, and major rehabilitation of a few projects to correct identified problems. Also, major investments have been made in Southwestern's aging transmission facilities to sustain the reliability of the system. This filing represents the first

revenue change for the Integrated System in seven years. The second reason is the restructuring of Southwestern's generation and transmission rates and the development of separate rates for ancillary services. This restructuring conforms with the intent of FERC Order Nos. 888 and 888–A, and required a shift of certain costs between generation and transmission to provide for ancillary services and also to reassign generation costs associated with Corps transmission-related switchyard facilities to transmission. The reassignment of costs will have varying financial impacts on Southwestern's customers based on the service requested and provided.

In Southwestern's 1988 and again in the 1990 Rate Proposals, two noteworthy issues, which have previously been approved by FERC were described in detail. The two issues were (1) the treatment of a portion of the Truman project investment as not currently repayable, and (2) the development of customer-specific credits to the Purchased Power Adder to refund excess revenues collected under Southwestern's purchased power rate component.

Harry S. Truman Project

The Truman issue arose out of the limitations placed on the project's operations by the Corps. The project was designed and constructed to have 160 MW of dependable (marketable) capacity through the use of six reversible pump turbine generating units which could return water to the reservoir following normal generation, to mitigate extreme variations in water available for generation and the lack of storage capacity in the project (only two feet). Pumping ensures project dependable capacity and allows marketing of all six units. A substantial fish kill during testing of the units and considerable opposition to the project's operation, both in the pumping mode and the full six-unit generation mode, led the Corps to significantly restrict the project's operation. In particular, the project's pumps may not be used and only a limited number of units may be utilized simultaneously. Consequently, Southwestern is unable to market full capacity from the project and has declared only two units in commercial operation. Southwestern proposed to FERC in the 1988 rate filing that, since the entire project was neither revenue-producing, declared in commercial operation, nor expected to be in service within the then-existing cost evaluation period, the total investment allocated to power was not repayable under DOE or FERC regulations. Southwestern further proposed an adjustment to Truman's allocated costs and reduced the repayable investment to an amount equal to approximately 44 percent of then-allocated costs, with the remaining amount to be deferred until the project can be operated as it was designed. FERC approved this proposal as an acceptable interim measure while the Corps develops a cost allocation for Truman based on actual operating conditions. Southwestern also proposed this concept to the Corps, and the Corps agreed to consider it as an option in developing the cost allocation for the project. Subsequently, the Corps has completed a major revision to the Truman project cost allocation and has utilized Southwestern's proposed concept for determining repayable investment at the project during the interim period until the project becomes fully operational. Although not yet approved on a final basis, the Interim Cost Allocation proposed by the Corps for the Truman project has been utilized in the development of the 1990 PRSs and in the 1997 PRSs in support of the revenue requirements of Southwestern's System and the rate proposal, as the most recent cost allocation available which reasonably reflects the level of costs expected to be payable at the Truman project during the cost evaluation period.

During February 1997, the Interagency Committee on Cost Allocations (ICCA) met to review and potentially approve the Truman, Stockton, and Clarence Cannon project cost allocations. The Stockton cost allocation was subsequently approved on a final basis on May 8, 1997. The Clarence Cannon cost allocation was sent back to the Corps' St. Louis District for a review of the classification of a specific charge and was to be returned to the ICCA for final approval. The Truman cost allocation was to be sent back to the Corps' Kansas City District office to make changes in the allocation's assumptions and then be prepared for finalization. However, in June 1997, a second meeting of the ICCA was held with several customer representatives to discuss the Truman cost allocation. The customers expressed their concern about the significant level of costs being proposed while the project continued to be limited in its ability to produce hydropower. At this meeting, the Corps agreed to review the issue of assigning hydro-related costs to another project purpose that had contributed to limiting the hydro operation of the project. The allocation of those costs to another purpose would be potentially considered temporary and the costs would be reallocated back to the hydropower purpose in an amount relational to the part of the hydropower purpose functioning as originally designed. Southwestern does not anticipate finalization of the Truman cost allocation within the 1997 PRS cost evaluation period; therefore, Southwestern has continued to use the Interim Cost Allocation for the Truman project in development of the 1997 PRS.

Purchased Power Deferral Account (Credit and Adders)

In the 1988 and 1990 PRSs, Southwestern implemented customer-specific purchased power credits to flow back over a fixed period deferred revenues and interest accrued on such revenues in such a way as to equalize the average purchased power adder rate per kilowatthour (kWh) paid by each customer. These credits remained in effect through September 30, 1993, to balance each customer's average cost irrespective of the condition or balance of the Purchase Power Account (Account), or the need for rate adjustment in the meantime. The customer-specific credits specified in the 1990 PRS, like the previous credits, were insufficient to totally equalize the average purchased power adder rate paid by each customer. Changing interest rates, above average water conditions during the period which eliminated the need for estimated average-year purchases, and different rates for the credits over the credit period kept the previous credits from reaching the goal. Therefore, additional customer-specific adjustments are needed to bring all participating customers to the same level. It is important that the remaining revenues to be credited flow back over a short period to get all customers on the same per kWh contribution basis. Southwestern is proposing to flow back the deferred revenues and interest during the service period January 1, 1998, through June 30, 1998. However, to avoid the potential for making cash payments to customers in excess of monthly charges, the rate schedules again limit the amount of applicable credit in any month to the level of total charges for Southwestern's services rendered for such month, and allow for any excess credit to be used in future billing periods. Amounts of revenue and interest in the Account at any time are System revenues, entirely within the purview of Southwestern. No customer is considered to have escrowed these funds, nor to have any specific entitlement or ownership right in contributions to the Account or accrued interest, although Southwestern will

attempt to apply purchased power adders, and credits, on a basis reasonably proportional to applicable customer purchases of peaking power and energy.

During the time the purchased power adders and the accounting mechanism have been in place, they have proven to be effective in assuring that purchased power revenues equal purchased power costs over time. The financial interests of the Government have been protected in this endeavor, and the rate component has been adjusted as necessary. In the 1988 and 1990 Rate Proposals, Southwestern also requested approval for the Administrator to have authority to adjust the purchased power rate component up to once annually, based on a formula-type rate included in the rate schedules, by up to $0.0005 per kWh at his or her discretion. The flexibility derived from this authority enables Southwestern to react more quickly to significant changes in water conditions which may have occurred during the preceding year or simply to exercise better control on the amount of revenue in the Account and to better limit the over or under recoveries of revenue. The Administrator utilized this authority in December 1993, 1994, 1995, and 1996 to implement adjustments of up to $0.0005 per kWh additional credit to help reduce excess revenues collected in the Account during the previous years of good water conditions and the corresponding reduced need for purchased power. This authority seems to remain appropriate, particularly in light of the fact that the Account has no direct effect on System repayment requirements and the separate rate component serves to provide revenues to meet expected costs which, if they do not come to pass, are either held to meet future costs or result in a lower purchased power rate for customers. However, experience has shown Southwestern that the $0.0005 per kWh adjustment level does not provide significant impact to the Account especially during times of widely fluctuating water conditions. Therefore, Southwestern's Administrator requests continuing authority to adjust the purchased power rate component annually based on a formula-type rate included in the rate schedules, but increasing his/her authority up to $0.0011 per kWh, an increase of $0.0006 per kWh, as he/she determines necessary, to provide better control over the amount of revenue in the Account and to provide greater flexibility in limiting the over and under recoveries of revenue.

An element directly related to the Account and accrual of interest thereto is the determination of the purchased power adder itself. Southwestern is proposing, as in all previous proposals beginning with the 1983 implementation of the purchased power rate component, that the adder be set equal to the current average long-term purchased power rate requirement. As shown in the Rate Design Study, the amount is determined by dividing the estimated total average direct purchased power costs by Southwestern's total annual contractual 1200-hour peaking energy commitments to the customers (exclusive of contract support arrangements). In this rate proposal, the resulting Purchased Power Adder (Adder) is $0.0011 per kWh of peaking energy. The total revenue created through application of this Adder would enable Southwestern to cover its average annual purchased power costs.

Comments and Responses

The Southwestern Power Administration (Southwestern) received numerous comments from customers and interested parties from the public participation process. The issues identified in these comments were given careful and thorough consideration and, where deemed appropriate, solutions were developed and incorporated into Southwestern's final rate proposal, as noted in the earlier Discussion section. A summary of major comments and Southwestern's responses to the issues raised in them follows:

Corps O&M Expenses

Comment: Southwestern's updated revenue requirement projections based on audited financial statements for the FY 1996 indicate that Corps of Engineer's (Corps) Operation & Maintenance (O&M) expenses for 1996 were approximately $4,900,000 less than estimated by Southwestern in its revenue requirements projection. However, Southwestern did not revise its Corps O&M projection. It appears that Corps O&M expenditures are increasing as compared to historical levels, while Southwestern is reducing its expenditures. Corps O&M expenditures are approximately 30 percent of the cost of Southwestern hydropower. Reductions in Corps O&M expenditures will reduce upward rate pressure on Southwestern's rates. When Southwestern modifies rates in FY 2001, it should consider reducing the Corps O&M expense to reflect actual expenses in 1996, 1997 and 1998.

Response: Southwestern agrees that the audited financial statements for FY 1996 Corps O&M expense were approximately $4.9 million less than Southwestern estimated in the 1996 Power Repayment Study (PRS), but $4.2 million of this difference was due to unforeseen and extraordinarily large retirement losses which are not projected by the Corps or Southwestern. The Corps O&M expenses before the retirement losses were $30.9 million, less than 2 percent from the previous projection for FY 1996. Projections for Corps O&M are not developed by Southwestern, but are developed by the Corps and provided to Southwestern annually. The Corps makes projections using historical information and then includes projections for large maintenance items for each of the projects that have been included in their outyear budget estimates. These projections are made in current year dollars. Southwestern reviews this information and adjusts the estimates to future year dollars based on the Gross Domestic Product Price Index projection to incorporate inflationary trends. Southwestern agrees that such costs should be prudently and timely incurred at reasonable levels consistent with maintaining the high level of reliability required in the utility industry. Historically, the estimates that the Corps provides have been reasonably accurate in total, although they fluctuate from actual expenditures by individual project. The Corps believes that its internal controls, accounting system reviews, and funding procedures effectively provide the needed level of justification, consistency, and control of its O&M expenditures.

Southwestern agrees that a reduction in Corps O&M expenditures would help in reducing the upward pressure on rates. However, the Corps O&M expenditures have been quite stable for most of the last ten years. There is no indication by the Corps that O&M costs will be increasing significantly, but future PRSs will reflect any such trend. It is true that Corps O&M expenditures are a significant percentage of the cost of hydropower; but, considering the level of Corps power investment on the financial statements, this percentage does not appear to be out of line. Southwestern will continue to monitor the Corps estimates of O&M expenses to assure the estimates are reasonably comparable to actual expenses as noted on each year's financial statements. Southwestern completes repayment reviews each year and will include actual expenses for the latest historical year available in its review. When Southwestern modifies rates in FY 2001, it will incorporate actual Corps O&M expenses for FY 1997, FY 1998, FY 1999 and FY 2000.

Accelerated Repayment

Comment: Footnotes in the Southwestern PRS indicate that Southwestern plans in this PRS to repay debt faster than required by its loan obligations. Southwestern should not repay its Federal obligations any faster than required for purposes of establishing cost of service and rates. Southwestern should use amortization and interest expenses that do not exceed what is required to repay loan obligations.

Response: The footnote in Southwestern's PRS indicates that historical water conditions have been above average allowing for increased sales and amortization; however, this PRS indicates that, even with above average water conditions, current rates are insufficient to meet repayment criteria for the System. Southwestern's rate adjustment plan in the FY 1997 PRS does not accelerate repayment of the Federal investment. The comment's reference to loan obligations is actually the repayment of the Federal investment. Each year's investment at each project is treated as a separate repayment obligation with a specific term and interest rate. Southwestern's repayment policy is set forth in DOE Order No. RA 6120.2. Section 8.c.(3) of that Order states: ''To the extent possible, while still complying with the repayment periods established for each increment of investment and unless otherwise indicated by legislation, amortization of the investment will be accompanied by application to the highest interest-bearing investment first.'' The policy is based on Section 5 of the Flood Control Act of 1944 (Flood Control Act) which requires that power and energy from Federal projects be marketed, ''* * * at the lowest possible rates to consumers consistent with sound business principles * * *.'' Amortization of the capital investment is required by the Flood Control Act to be accomplished, ''* * * over a reasonable period of years * * *.'' This period has been determined by Order No. RA 6120.2 to be within 50 years from the date of commercial service for the hydroelectric projects and to be shorter periods for transmission and replacement investments based on their service lives.

Southwestern sets its rates based on average year water conditions. Southwestern's PRSs reflect the rate adjustment plan based on average hydrologic conditions. The repayment system permits the Power Marketing Administrations (PMAs) to vary the amount of capital returned to the Treasury from year to year, reflecting the water conditions and the volume of sales which they experience. From the beginning, the U.S. Congress recognized that marketable energy in a hydroelectric system would vary from year to year with fluctuations in available water. The Congress agreed that, in order to produce a stable rate structure, repayment plans which are based on average water conditions are a reasonable approach. This model permits Southwestern to apply a stable rate over a period of years, regardless of actual water conditions. In above-average water years, the rate model recovers more capital which balances poorer returns during below average water years.

During most of the past ten years, Southwestern has experienced above average water conditions; therefore, Southwestern has returned more funds to the U.S. Treasury than had been planned. The Flood Control Act of 1944 requires that: ''All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts.'' All revenues from sales of power and energy and non-Federal transmission are returned to the Treasury. Revenues that exceed expenditures for a particular year are credited to the repayment of investment. Revenues credited to repayment of the Federal investment during the past ten years have enabled Southwestern to maintain stable rates since 1992. As a rate increase of 1.9 percent is needed, the Current PRS reflects that the 1997 rate adjustment plan, with existing rates, is insufficient to meet anticipated repayment obligations.

FY 2001 Test Year

Comment: Industry accepted practice is to raise rates when there is a clear need to raise them. There does not appear to be information that supports Southwestern's need to increase its rates before FY 2001. Typically, electric utilities use one of three methods to establish a test year. The test year selection methods include (1) Historical, based on actual results of a previous year; (2) projected, based on the same year the rates are established; or (3) combination of actual and projected data. Southwestern does not need a rate increase until the year 2001. It would be consistent with past precedent to develop steps to these rates or implement them for a test year in 1998.

Response: The existing repayment study methodology prescribed by DOE Order No. RA 6120.2 advocates a cost evaluation period (CEP) that is ''normally 5 years'' to project future costs and revenues to reflect changing conditions. That methodology was established, at least in part, (1) to provide some protection for the financial integrity and stability of the PMAs, including Southwestern, which must assure recovery of all annual costs and repayment of investment from revenues based on hydroelectric power generation under highly variable water conditions, and (2) to provide a stabilizing effect on hydroelectric power rates to minimize the need for more numerous and potentially larger increases caused by a single year or event. While it is true that a five-year cost evaluation period is not required, Southwestern has utilized it consistently, and it serves as a ''reasonable'' period over which Southwestern can project future events and costs. This repayment methodology has been used consistently through Southwestern's history, and the FERC has supported the process through its approval of past rate adjustments.

Southwestern's customers' concerns that would warrant pursuing a phased-in rate increase at this time have been carefully considered. Southwestern is faced with certain statutory (the Flood Control Act of 1944) and regulatory (DOE Order No. RA 6120.2) requirements which limit the latitude the Administrator can exercise in setting the cost-based rates. Southwestern remains committed to the continued financial integrity and stability of its System through the development of regular annual PRSs based upon average-water-year conditions and on the implementation of rate increases, as needed, in accordance with such legal and regulatory requirements. This process has been strongly supported in recent years by customers and customer organizations. The stepped-in rate approved in 1990 was a one-time phase-in approach that was intended as a reasonable accommodation to customer concerns regarding a single 14.4 percent increase. At that time, there was a unique situation regarding Corps O&M costs and confusion over Corps policy regarding preventive and breakdown maintenance as well as inconsistency in anticipated funding level restrictions. The level of the rate adjustment in this rate filing, 1.9 percent, is minor in its application to rates, and Southwestern does not have a compelling reason to phase it in.

Some customers are impacted at a rate greater than 1.9 percent, primarily due to rate restructuring. Such restructuring stems from Southwestern's requirement to conform to the intent of FERC Order No. 888. However, an analysis of the data indicates that the shift in Southwestern's expense patterns from generation-related costs, which have

decreased, to increased transmission system-related costs, would have caused such customers to be impacted by increased transmission costs, whether or not an overall revenue increase were warranted. In addition, with all the changes in the electric industry, this is considered a ''sound business principle'' in that it reduces Southwestern's financial risk (albeit, only slightly) of repaying its Federal investment in a timely manner.

Losses

Comment: Capacity losses are approximately 2.8% of total peaking and firm capacity. Losses and station services are approximately 3.3% of total energy resources available for sale. Typically demand losses are greater than energy losses, stated on a percentage basis. Station service should not be included as energy losses; only losses that occur on the transmission system should be considered when calculating transmission losses. Request Southwestern prepare a transmission loss study. Transmission loss rates for transmission customers should be established and updated each year. 5% power factor losses are higher than surrounding control areas. Anything over 3% must be justified by a loss study.

Response: The percentages used in the above comment are believed to have been developed from numbers in the 1997 PRS and were based on Southwestern's Load Resource Study which, for simplicity, combines losses and station service to show total energy usage. Southwestern recently performed a transmission loss study. Station service was not included in our loss study. Only losses that occur on the transmission system were considered in the calculation of transmission losses in the loss study. Southwestern's loss study indicates that Southwestern's loss percentage is approximately 4 percent. Consequently, Southwestern has reduced the loss percentage from 5 percent to 4 percent for real power losses and included that figure in its rate schedules. Southwestern will also begin charging for losses, as compared to its previous practice of requiring losses to be scheduled as energy.

Isolated Projects and Bundled Rates

Comments: Isolated projects should not be required to pay for transmission and ancillary services that they do not use. Isolated projects should receive credit for incurring costs that the typical Southwestern customer does not. It is not appropriate to charge ancillary services for isolated project power.

SWPA must offer unbundled service to all of its customers under non-discriminatory terms and conditions. Proposal to require all customers, regardless of whether they take power from SWPA's Integrated System or use any of SWPA's transmission facilities, to pay for their hydro power purchases under a bundled rate that includes transmission and a charge for scheduling and reactive power services is contrary to Order No. 888 and will not be approved by FERC.

Response: Southwestern's sale of Federal power and energy are based on a ''postage-stamp'' type rate, which is based on the financial integration of all the projects marketed under the Integrated System, as well as various components of Southwestern's transmission system. The capacity rate for all Federal power customers includes a transmission component and the two required ancillary services. This rate has been set to assure that Southwestern charges itself the same rates it charges for the use of the transmission system for wheeling non-Federal power. The customers which receive the output of Corps projects that are presently electrically isolated from Southwestern's primary interconnected system requested integration of such projects into the Integrated System to receive that system's benefits, including lower costs. In addition, such customers receive a number of benefits from their project sales which other Federal customers do not, such as overload capacity, condensing, greater scheduling flexibility, and exclusion from paying the Purchased Power Adder. Additionally, such projects also include components of Southwestern's transmission system and switchyard facilities used to deliver power and energy from the dams. In addition, revenues from all sales within the Integrated System are applied toward repayment of all Federal investment for all projects, regardless of their electrical integration status.

Southwestern is not required by FERC Order No. 888 to offer unbundled services to its customers. Section 5 of the Flood Control Act of 1944 sets forth the statutory requirements for the sale and delivery of Federal power and energy. Based on DOE policy, ''each of the PMAs that own transmission facilities will publish generally applicable open access wholesale transmission tariffs and will take service itself under such tariffs. The tariffs will include rates, terms, and conditions, and will offer transmission services, including ancillary services, to all entities eligible to seek a transmission order under section 211 of the Federal Power Act . . .'' Southwestern has complied with this policy in separating its non-Federal transmission service to provide for ancillary services.

Other Issues

Other issues are discussed in the Administrator's Record of Decision.

Availability of Information

Information regarding this rate proposal including studies, comments and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, OK 74101.

Administrator's Certification

The November 1997 Revised Power Repayment Study indicates that the increased power rates will repay all costs of the Integrated System including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. In accordance with Section 1 of Delegation Order No. 0204–108, as amended November 10, 1993, 58 FR 59717, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed System rates are consistent with applicable law and the lowest possible rates consistent with sound business principles.

Environment

The environmental impact of the proposed System rates was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective January 1, 1998, the following Southwestern System Rate Schedules which shall remain in effect on an interim basis through September 30, 2001, or until the FERC confirms and approves the rates on a final basis.

Dated: January 7, 1998.

Elizabeth A. Moler,

Deputy Secretary.

[FR Doc. 98–1060 Filed 1–14–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert Douglas Willis Hydro Power Rate Approving a Power Rate Increase on an Interim Basis

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Deputy Secretary acting under Amendment No. 3 to Delegation Order No. 0204–108, dated November 10, 1993, has approved Rate Order No. SWPA–36 which increases the power rate for the Robert Douglas Willis Hydro Project. This is an interim approval of the rate effective January 1, 1998, through September 30, 2001.

FOR FURTHER INFORMATION CONTACT: Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101–1619.

SUPPLEMENTARY INFORMATION: The existing rate for the Robert Douglas Willis Hydro Project is $266,928 per year. The rate was approved on a final basis by the Federal Energy Regulatory Commission on January 28, 1997, for a period ending September 30, 2000.

On September 24, 1997, the Southwestern Power Administration (Southwestern) published notice in the **Federal Register**, 62 FR 49976 of its proposed rate increase for the Robert Douglas Willis Hydro Project and to provide a 45-day comment period. One comment indicating no objection to the proposed rate increase was received from the sole customer, Sam Rayburn Municipal Power Agency.

Following review of Southwestern's proposal within the Department of Energy, I approved, Rate Order No. SWPA–36, which increases the existing Robert Douglas Willis Rate to $302,928 per year for the period January 1, 1998, through September 30, 2001.

Dated: January 7, 1998.

Elizabeth A. Moler,

Deputy Secretary.

Order Confirming, Approving and Placing Increased Power Rate in Effect on an Interim Basis

Rate Order No. SWPA–36

January 1, 1998.

In the matter of: Southwestern Power Administration—Robert D. Willis

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664, the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place into effect on an interim basis power and transmission rates, and delegated to the Federal Energy Regulatory Commission (FERC) on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744, revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates to the Under Secretary of Energy rather than the Deputy Secretary of Energy. This delegation was reassigned to the Deputy Secretary of Energy by Department of Energy (DOE) Notice 1110.29, dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89, dated August 3, 1989, and subsequent revisions. By Amendment No. 2 to Delegation Order No. 0204–108, effective August 23, 1991, 56 FR 41835, the Secretary of the Department of Energy revised Delegation Order No. 0204–108 to delegate to the Assistant Secretary, Conservation and Renewable Energy, the authority which was previously delegated to the Deputy Secretary in that Delegation Order. By Amendment No. 3 to Delegation Order No. 0204–108, effective November 10, 1993, 58 FR 59717, the Secretary of Energy revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates by delegating that authority to the Deputy Secretary of Energy. This rate order is issued by the Deputy Secretary pursuant to said Amendment to Delegation Order No. 0204–108.

Background

Dam B (Town Bluff Dam), located on the Neches River in eastern Texas downstream from the Sam Rayburn Dam, was originally constructed in 1951 by the U.S. Army Corps of Engineers (Corps) and provides streamflow regulation of releases from the Sam Rayburn Dam. The Lower Neches Valley Authority contributed funds toward construction of both projects and makes established annual payments for the right to withdraw up to 2000 cubic feet of water per second from Town Bluff Dam for its own use. Power was legislatively authorized at the project, but installation of hydroelectric facilities was deferred until justified by economic conditions. A determination of feasibility was made in a 1982 Corps study. In 1983 the Sam Rayburn Municipal Power Agency (SRMA) proposed to sponsor and finance the development of hydropower at Town Bluff Dam in return for the output of the project to be delivered to its member municipalities and participating member cooperatives of the Sam Rayburn Dam Electric Cooperative. Since the hydroelectric facilities at the Town Bluff Dam have been completed, the facilities have been renamed the Robert Douglas Willis Hydropower Project (Robert D. Willis).

The Robert D. Willis rate is unique in that it excludes the costs associated with the hydropower design and construction performed by the Corps, because all funds for these costs were provided by SRMA. Under the Southwestern/SRMA power sales Contract No. DE–PM75–85SW00117, SRMA will continue to pay all annual operating and marketing costs, as well as expected capital replacement costs, through the rate paid to Southwestern, and will receive all power and energy produced at the project for a period of 50 years.

Discussion

The 1997 Current Robert D. Willis Power Repayment Study (PRS) tests the adequacy of the existing rate based on the evaluation period extending from FY 1997 through FY 2001, to recover annual expenses for marketing, operation and maintenance, and to amortize additions to plant and major replacements of the generating facilities. Since the project's design and construction were financed in their entirety by SRMA, no component for amortization of the original investment of some $18 million is included in the rate determination. The Current PRS for the Robert D. Willis project, using the existing annual rate of $266,928, indicates that the legal requirements to repay all costs will not be met and an increase in revenue is necessary. The additional revenue needed is, in part, a result of the increase in replacement costs required to be recovered. In addition, the Corps had projected a significant increase in its estimates of operations and maintenance (O&M) costs for the Robert D. Willis project. The previous year's O&M projections were considered by the Corps to have been understated.

The existing annual Robert D. Willis project power rate of $266,928 was confirmed and approved on a final basis by the FERC on January 28, 1997, for the period October 1, 1996, through September 30, 2000. The 1997 Robert D. Willis Current Power Repayment Study (PRS) indicates that the present rate does not meet the cost recovery criteria for the isolated project. Over the entire repayment period the current rate will underpay requirements by $13,310,053. The 1997 Robert D. Willis Revised PRS indicates that an annual rate of $302,928 will satisfy repayment criteria in accordance with Department of Energy Order No. RA 6120.2 and Section 5 of the Flood Control Act of 1944. The proposed increase in revenue amounts to $36,000 or 13.5 percent annually to begin January 1, 1998. The proposed rate of $302,928 annually would satisfy the present repayment criteria.

Pursuant to Title 10, Part 903, Subpart A of the Code of Federal Regulations (10 CFR 903), ''Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions'', 50 FR 37837, the Administrator, Southwestern, published notice in the **Federal Register** (62 FR 49976), on September 24, 1997, announcing a 45-day period for public review and comment. Southwestern held informal meetings and a Public Information Forum on October 2, 1997, where Southwestern provided copies of supporting data for the 1997 Robert D. Willis PRS to interested parties. A letter was received on behalf of SRMA, indicating no opposition to the proposed rate increase. Southwestern did not receive any request to convene a formal Public Comment Forum and, as a result, did not convene such a meeting. Information regarding this rate proposal, including studies, comments and other supporting material, is available for public review and comment in the offices of the Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74103.

Administrator's Certification

The 1997 Revised Robert D. Willis PRS indicates that the annual power rate of $302,928 will repay all costs of the project including amortization of additions to plant and major replacements of the generating facilities consistent with provisions of DOE Order No. RA 6120.2. In accordance with Section 1 of Delegation Order No. 0204–108, as amended November 10, 1993, 58 FR 59717, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Robert D. Willis power rate is consistent with applicable law and is the lowest possible rate consistent with sound business principles.

Environment

The environmental impact of the rate increase proposal was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective January 1, 1998, the proposed annual rate of $302,928 for the sale of power and energy from the Robert D. Willis project to the Sam Rayburn Municipal Power Agency, under Contract No. DE–PM75–85SW00117, as amended. The rate shall remain in effect on an interim basis through September 30, 2001, or until the FERC confirms and approves the rate on a final basis.

Dated: January 7, 1998.

Elizabeth A. Moler,

Deputy Secretary.

[FR Doc. 98–1059 Filed 1–14–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5950–2]

National Drinking Water Advisory Council; Request for Nominations

The Environmental Protection Agency (EPA) invites all interested persons to suggest individuals to serve as members of a working group that will be formed to provide advice to the National Drinking Water Advisory Council on how the new Safe Drinking Water Act approach to benefits and costs should be implemented in the decision making process. The Council was established to provide practical and independent advice, consultation, and recommendations to the Agency on the activities, functions and policies related to the Act as amended. At the October 15 and 16, 1997, meeting of the Council, it was decided that a working group should be formed to provide this specific input. Following reports from the working group, the Advisory Council will consider recommendations to forward directly to EPA.

Because membership on this group will be limited and must be representative of balanced views, selections will be made by the Director, Office of Ground Water and Drinking Water, based on drinking water expertise and demonstrated interest in drinking water policy. Any interested person or organization may suggest an individual for a position on this working group. Candidates should be identified by name, occupation, position, address and telephone number.

Persons selected for membership are responsible for any expenses that would be incurred while attending meetings. Suggestions should be submitted to Charlene E. Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 401 M Street, SW, Washington, D.C. 20460, no later than January 28, 1998.

The Agency will not formally acknowledge or respond to nominations. E-Mail your questions to shaw.charlene@epamail.epa.gov or call 202–260–2285.

Dated: January 9, 1998.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–1073 Filed 1–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5950–3]

National Drinking Water Advisory Council; Notice of Open Meetings

Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on February 2, 1998, from 1:00 p.m. until 4:00 p.m., in Room 1209 East Tower, U.S. Environmental Protection Agency (EPA) Headquarters, 401 M Street SW, Washington, D.C. 20460. Council members will be participating by Conference Call. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of this meeting is to provide the Council with the recommendations of the Occurrence and Contaminant Selection Working Group

on the Final Drinking Water Contaminant Candidate List.

The meeting is open to the public. The Council encourages the hearing of outside statements and will allocate one-half hour for this purpose. Oral statements will be limited to five minutes, and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260-2285 before January 28, 1998.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, D.C. 20460. The telephone number is Area Code (202) 260–2285 or E-Mail Shaw.Charlene@epamail.epa.gov.

Dated: January 9, 1998.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–1072 Filed 1–14–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Approved by Office of Management and Budget

January 7, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, 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. Questions concerning the OMB control numbers and expiration dates should be directed to Jerry Cowden, Federal Communications Commission, (202) 418–0447.

Federal Communications Commission

OMB Control No.: 3060–0782.

Expiration Date: 1/31/2001.

Title: Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations.

Form Number: Not applicable.

Estimated Annual Burden: 800 hours; 8 hours per response; 20 respondents.

Description: The Commission has provided voluntary guidelines for filing expanded local calling service requests. The guidelines ask that each ELCS request include the following information: (1) Type of proposed service; (2) direction of proposed service; (3) telephone exchange involved; (4) names of affected carriers; (5) state commission approval; (6) number of access lines or customers; (7) usage data; (8) poll results if any; (9) community of interest statement; (10) a map showing exchanges and LATA boundary involved; and (11) any other pertinent information. These guidelines will allow the Commission to conduct smooth and continuous processing of these requests. The collection of information will enable the Commission to determine if there is a public need for expanded local calling service in each area subject to the request.

OMB Control No.: 3060–0786.

Expiration Date: 1/31/2001.

Title: Petitions for LATA Association Changes by Independent Telephone Companies.

Form Number: Not applicable.

Estimated Annual Burden: 120 hours; 6 hours per respondent; 20 respondents.

Description: The Commission has provided voluntary guidelines for filing LATA association change requests. The guidelines ask that each LATA association change request include the following information: (1) Type of request; (2) exchange information; (3) number of access lines or customers; (4) public interest statement; (5) a map showing exchanges and LATA boundaries involved; (6) a list of extended local calling service (ELCS) routes between the independent exchange and the LATA with which it is currently associated; and (7) a BOC supplement requesting a modification of the LATA boundary. The requested information will be used by the Commission to determine whether the need for the proposed changes in LATA association outweighs the risk of potential anticompetitive effects, and thus whether requests for changes in LATA association and connected modifications of LATA boundaries should be granted.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–970 Filed 1–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

The Commission voted to hold a meeting *closed* to the public on *Thursday, January 8, 1998,* pursuant to 11 CFR 2.7(d) (1) and (2), ''that Commission business so requires and that no earlier announcement of the change was possible.''

DATE AND TIME: Wednesday, January 21, 1998 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, January 22, 1998 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1997–26: Association of Metropolitan Sewage Agencies by counsel, Herbert E. Marks and Brian J. McHugh.

Audit: San Diego Host Committee/Sail to Victory '96 (continued from meeting of December 4, 1997).

Audit: Committee on Arrangements for the 1996 Republican National Convention (continued from meeting of December 4, 1997).

Senior Level (SL) Pay System.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–1169 Filed 1–13–98; 2:28 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date of this notice appears in the **Federal Register**.

Agreement No.: 202–008090–042.

Title: Mediterranean North Pacific Coast Freight Conference.

Parties: Med Pacific Express Zim Israel Navigation Co., Ltd.

Synopsis: The parties have modified their Agreement to reflect the deletion of the trade from the West Coast of the United States to the Mediterranean from the geographic scope of the Agreement as of February 15, 1998.

Agreement No.: 232–011605.

Title: GWF/Seaboard Space Charter and Sailing Agreement.

Parties: Great White Fleet, Ltd. (''GWF'') Seaboard Marine, Ltd. (''Seaboard'')

Synopsis: The proposed Agreement permits the parties to charter space to each other, rationalize sailings, to interchange equipment, and to enter into joint terminal arrangements relating to stevedoring or other marine terminal operations in the trade between the U.S. Atlantic and Gulf Coasts and the Caribbean Coast of Colombia, Costa Rica, Guatemala, Honduras and Panama.

By Order of the Federal Maritime Commission.

Dated: January 9, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–997 Filed 1–14–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

International Forwarding and Logistics, Inc., 2653 Veneer Street, Charleston, SC 29405, Officer: Leslie M. Leben, President

MATEX International Ltd., 201 E. Grand Avenue, Suite 1–A, Escondido, CA 92025, Officers: Ronald A. Matsuishi, President, Frank B. Reinsch, General Manager

American Container Line, 1340 Tully Road, Suite 313, San Jose, CA 95122, Steve Dinh, Sole Proprietor

Dated: January 9, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–998 Filed 1–14–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 30, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Neal C. Needham, Anna, Illinois; to acquire additional voting shares of First State Bank of Dongola, Dongola, Illinois.

Board of Governors of the Federal Reserve System, January 12, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1077 Filed 1–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 9, 1998.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. WesBanco, Inc., Wheeling, West Virginia; to acquire 100 percent of the voting shares of Commercial Bancshares, Incorporated, Parkersburg, West Virginia, and thereby indirectly acquire The Bank of Paden City, Paden City, West Virginia, Commercial Banking and Trust Company, Parkersburg, West Virginia, Jackson County Bank, Ravenswood, West Virginia, Farmers & Mechanics Bank of

Ritchie County, Harrisville, West Virginia, The Dime Bank, Marietta, Ohio, Union Bank Of Tyler County, Middlebourne, West Virginia, The Community Bank, Pennsboro, West Virginia, and Gateway Bancshares, Inc., McMechen, West Virginia, and thereby indirectly acquire The Bank of McMechen, McMechen, West Virginia.

In connection with this application, Applicant also has applied to acquire Commbanc Investment, Inc., Marietta, Ohio, and Hometown Finance Co., Inc., Parkersburg, West Virginia, and thereby engage in securities brokerage activities pursuant to § 225.28(b)(7)(i) of the Board's Regulation Y, in financial and advisory activities pursuant to § 225.28 (b)(6) of the Board's Regulation Y; extending credit and servicing loans pursuant to § 225.28(b)(1) of the Board's Regulation Y; and acting as agent for the sale of death and disability insurance directly related to its consumer lending activities pursuant to § 225.28(b)(11)(ii) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Regions Financial Corporation, Birmingham, Alabama; to merge with Key Florida Bancorp, Inc., Bradenton, Florida, and thereby indirectly acquire Liberty National Bank, Bradenton, Florida.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Community Bank Shares of Indiana, Inc., New Albany, Indiana; to acquire 100 percent of the voting shares of NCF Financial Corporation, Bardstown, Kentucky, and thereby indirectly acquire NCF Bank & Trust Company, Bardstown, Kentucky.

2. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of Security Bancshares, Inc., Des Arc, Arkansas, and thereby indirectly acquire Farmers & Merchants Bank, Des Arc, Arkansas, and Merchants & Farmers Bank, West Helena, Arkansas.

D. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Forstrom Bancorporation, Inc., Clara City, Minnesota; to merge with First Valley Bankcorp, Seeley Lake, Montana, and thereby indirectly acquire First Valley Bank, Seeley Lake, Montana.

Board of Governors of the Federal Reserve System, January 9, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1001 Filed 1–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 29, 1998.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Banque Nationale de Paris, Paris, France; to engage *de novo* through its subsidiary BNP Securities (U.S.A.), Inc., Radnor, Pennsylvania, in buying and selling in the secondary market all types of securities on the order of customers as a ''riskless principal'' to the extent of engaging in a transaction in which the company, after receiving an order to buy (or sell) a security from a customer, purchases (or sells) the security for its own account to offset a contemporaneous sale to (or purchase from) the customer, pursuant to § 225.28(b)(7)(ii) of the Board's Regulation Y. The proposed activities will be conducted worldwide.

Board of Governors of the Federal Reserve System, January 9, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1002 Filed 1–14–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Commission on Consumer Protection and Quality in the Health Care Industry; Notice of Public Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of the meeting of the Advisory Commission on Consumer Protection and Quality in the Health Care Industry. This two-day meeting will be open to the public, limited only by the space available.

Place of meeting: William Natcher Conference Center, National Institutes of Health (Building 45), 45 Center Drive; Bethesda, MD, 20892. Exact locations of the sessions will be available at the conference center (lower level) and on the Commission's web site, ''www.hcqualitycommission.gov''.

Times and Dates: The public meeting will span two days. On Tuesday, January 27, 1998, the subcommittee break-out sessions will take place from 8:00 a.m. until 4:30 p.m. On Wednesday, January 28, 1998, the general plenary session will begin at 8:00 a.m. and it will continue until 4:00 p.m.

Purpose/Agenda: To hear testimony and continue formal proceedings of the Commission's three (3) remaining subcommittees (Subcommittee on Consumer Rights has completed its work). Agenda items are subject to change as priorities dictate.

Contact Person: For more information, including substantive program information and summaries of the meeting, please contact: Edward (Chip) Malin, Hubert Humphrey Building, Room 118F, 200 Independence Avenues, S.W., Washington, DC 20201; [202/205–3333].

Dated: January 8, 1998.

Janet Corrigan,

Executive Director, Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

[FR Doc. 98–962 Filed 1–14–98; 8:45 am]

BILLING CODE 4110–60–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–07–98]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of

information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. The Tri-State Mining District: Lead Exposure and Immunotoxic Effects Study in the Tri-State District—New—The proposed study evaluates associations between immune system dysfunction/damage and exposure to lead among children in the Tri-State Mining District. This district encompasses several contaminated areas including three Superfund sites: The Oronogo-Duenweg Mining Belt site in Jasper County, Missouri; the Cherokee County Site in Kansas; and the Tar Creek, Ottawa County Site in Oklahoma.

The proposed study consists of two repeated in-person interviews and biological testing for blood lead and immune function among participants of the ongoing lead screening programs in the Tri-State Mining district. Approximately 50 children identified as having blood lead >10 micrograms per deciliter and 50 children with blood lead levels <5 micrograms per deciliter will constitute the study and comparison groups respectively. Blood specimens will be obtained to measure lead, complete blood count, EP, ZPP, antibody titers, and the CDC/ATSDR recommended immune panel. A second blood drawn a month later will examine intra-personal immune tests stability and will help evaluate the relationship between immune results and recent illness. Parents will be interviewed using a children's health questionnaire that solicits information on demographics, the medical history of each child and the occurrences of recent illness. Statistical analyses will compare health outcome measures (symptoms, illness, change in immune parameters) to blood lead levels. Other than their time, there will be no cost to the respondents. The length of clearance requested is for 1 year. Total annual burden hours are 125.

Form name	Number of respondents	Number of responses/respondent	Average burden/response (in hrs)	Total burden (in hrs.)
Verification	500	1	0.5	25
Pediatric Immune Questionnaire	100	2	0.05	100

2. National Childhood Blood Lead Surveillance System—(0920–0337)—Reinstatement—Lead poisoning is a common and societally devastating environmental disease of young children in the United States. In response to the call for a national surveillance program of lead levels made in the HHS publication, *Strategic Plan for the Elimination of Childhood Lead Poisoning* (February 1991), CDC established the National Childhood Blood Lead Surveillance System. In FY92, CDC awarded funds to eight states to assist them in developing a complete childhood lead surveillance activity. In FY96, CDC provided funding for childhood blood lead surveillance activity in 31 states and the District of Columbia. Sixteen of these states submitted 1995 (calendar year) data to the national database. Information from this national surveillance system may be used by Federal and state agencies to (1) more accurately estimate the number of children with elevated lead levels; (2) monitor short-term trends; (3) identify clusters of cases; (4) determine geographic distribution of cases; (5) examine risk factors among children with elevated lead levels; (6) identify risk factors for elevated lead levels among specific population groups; (7) target intervention programs to groups at risk for elevated lead levels; and (8) track national progress in eliminating childhood lead poisoning. Total annual burden hours are 456.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
State Health Departments:				
(a) Annual Report	20	1	10	200
(b) Quarterly Report	32	4	2	256

3. Risk And Protective Factors of Intimate Partner Violence Survey—New—The purpose of the project is to identify early warning signs and protective factors in intimate violence prevention by conducting a random-digit-dial national survey. Findings from a preliminary focus group study reveal that: (1) There may exist a pattern of early warning signs that women can use to avoid intimate partner violence, (2) certain individual and societal characteristics (which we call risk and protective factors), such as family history of abuse or the support of friends or institutions, may increase or reduce the risk of violence in women's lives, (3) these risk and protective factors may influence women's ability to detect early warning signs for physical violence perpetrated by an intimate partner, and (4) there may be differences between African-American, Caucasian, and Hispanic women regarding helping relationships and services utilized by abused women.

The survey will include a stratification methodology to include six specific categories of women across the United States who are over 18 years of age. The six categories of women are African-American, Caucasian, and Hispanic women who: (1) Have never been in a violent relationship, (2) are currently in a violent relationship, and (3) have previously been in a violent relationship, but have been living free of violence for at least one year. The survey will gather data from approximately 1,800 women using an interview protocol which was developed and pilot tested in conjunction with the focus group study and has been refined by experts and CDC program staff. Total annual burden hours are 630.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hrs.)	Total burden (in hrs.)
Never Abused in a Relationship:			12 min.	
—African Am.	300	1	.2	60
—Caucasian	300	1	.2	60
—Hispanic	300	1	.2	60
Currently in Abusive Relationship:			15 min.	
—African Am.	300	1	.25	75
—Caucasian	300	1	.25	75
—Hispanic	300	1	.25	75
Formerly in Abusive Relationship:			15 min.	
—African Am.	300	1	.25	75
—Caucasian	300	1	.25	75
—Hispanic	300	1	.25	75

Dated: January 9, 1998.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1016 Filed 1–14–98; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0236]

International Conference on Harmonisation; Guidance on Data Elements for Transmission of Individual Case Safety Reports; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a guidance entitled ''E2B Data Elements for Transmission of Individual Case Safety Reports.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance is intended to facilitate the standardization of the data elements for the transmission of individual case safety reports for both preapproval and postapproval reporting periods.

DATES: Effective January 15, 1998. Submit written comments at any time.

ADDRESSES: Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573. Single copies of the guidance may be obtained by mail from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), or by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Copies may be obtained from CBER's FAX Information System at 1–888–CBER–FAX or 301–827–3844.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Marcel E. Salive, Center for Biologics Evaluation and Research (HFM–220), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3974.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In the **Federal Register** of October 1, 1996 (61 FR 51287), FDA published a draft tripartite guideline entitled ''Data Elements for Transmission of Individual Case Safety Reports'' (E2B). The notice gave interested persons an opportunity to submit comments by December 30, 1996.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies on July 17, 1997.

In accordance with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997), this document has

been designated a guidance, rather than a guideline.

The guidance is intended to facilitate the standardization of the data elements for the transmission of individual case safety reports by identifying and defining the data elements for the transmission of all types of individual case safety reports, regardless of source and destination. This includes case safety reports for both preapproval and postapproval reporting periods and covers both adverse drug reaction and adverse event reports. It is not intended that this format should be used for cases in the integrated safety summary of a marketing license application dossier. For adverse reactions encountered in clinical trials, this format should be used only for those subject to expedited reporting.

This guidance represents the agency's current thinking on data elements for the transmission of individual case safety reports. It does not create or confer any rights for, or on, any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed, and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm'' or at CBER's World Wide Web site at ''http://www.fda.gov/cber/publications.htm''. Information on the electronic transmission of individual case safety reports is available on the Internet at IFPMA's ICH site home page at ''http://www.ifpma.org/ich1.html'' (see ''http://www.ifpma.org/m2-site/manicsr.htm'').

The text of the guidance follows:

E2B Data Elements for Transmission of Individual Case Safety Reports[1]

1. Introduction

1.1 Scope of this guidance

The objectives of the working group are to facilitate the standardization of the data elements for transmission of individual case safety reports by identifying and, where necessary or advisable, by defining the data elements for the transmission of all types of individual case safety reports, regardless of source and destination. This includes case safety reports for both pre- and postapproval periods and covers both adverse drug reaction and adverse event reports. It is not intended that this format should be used for cases in the integrated safety summary of a marketing license application dossier. For adverse reactions encountered in clinical trials, this format should be used only for those subject to expedited reporting. The scope of this topic does not encompass the definition of database structures, nor the design of a paper report form, quality control/quality assurance aspects, or technical security issues.

1.2 Background

Because of national and international laws, rules, and regulations, individual case safety reports of adverse drug reactions and adverse events need to be transmitted:

- From identified reporting sources to regulatory authorities and pharmaceutical companies;
- Between regulatory authorities;
- Between pharmaceutical companies and regulatory authorities;
- Within authorities or pharmaceutical companies;
- From clinical investigators, via the sponsor, to ethics committees;
- From authorities to the World Health Organization (WHO) Collaborating Center for International Drug Monitoring.

The transmission of such individual case safety reports currently relies on paper-based formats (e.g., yellow cards, Council for International Organizations of Medical Sciences (CIOMS) forms, MedWatch) or electronic media (e.g., within pharmaceutical companies, or with WHO), usually by online access, tape, or file transfer.

Considering the large number of potential participants in a world-wide exchange of information, there is a need for an electronic format capable of accommodating direct database to database transmission using message transfers.

Successful electronic transmission of information relies on the definition of common data elements, provided in this document, and standard transmission procedures to be specified by the ICH Electronic Standards for the Transfer of Regulatory Information (ESTRI) Expert Working Group (M2).

This document has taken into account the documents provided by ICH sponsors, the ENS-CARE Single Case Format, EuroSCaPE format, and the CIOMS IA proposal, and comments received following the circulation of these papers.

1.3 Notes on format of this document

Section 2 and its subsections designated A and B contain notes that are directed toward clarifying the nature of the data that should be provided. In addition, there are notes to assist in defining the format that should be used to transmit the data.

1.4 Definition of Data Elements

The format for individual case safety reports includes provisions for transmitting all the relevant data elements useful to assess an individual adverse drug reaction or adverse event report. The data elements are sufficiently comprehensive to cover complex reports from most sources, different data sets, and transmission situations or requirements; therefore, not every data element will be available for every transmission. In many, if not most, instances, a substantial number of the data elements will not be known and therefore will not be included in the transmission. Where it was deemed necessary, provisions for unknown/not applicable were included (e.g., outcome, route of administration). However, since the transmission is intended to be electronic, it was thought to be unnecessary to include provisions to assign values of unknown for all data elements. Different ways of including the same data have been provided to cope with differing information contents: e.g., age information can be sent as date of birth and date of reaction/event, age at the time of reaction/event, or patient age group according to the available information (see section B.1.2 and the respective user guidance). In this example, age would be provided by the most precise available data element rather than including multiple elements of redundant data.

Structured data are strongly recommended in electronic transmission and provisions for including information in this way have been made. However, structuring of the data also implies the use of controlled vocabularies, which are not yet available for some data elements. It is anticipated that electronic transmission of individual case safety reports will be implemented without controlled vocabularies until they become available. In certain instances, there are provisions for the transmission of some free text items, including a full text case summary narrative. The transmission of other unstructured data, such as full clinical records or images, is outside the scope of this guidance.

1.5 Minimum information

The minimum information for the transmission of a report should include at least one identifiable patient (section B.1), one identifiable reporter (section A.2), one reaction/event (section B.2), and one suspect drug (section B.4). Because it is often difficult to obtain all the information, any one of several data elements is considered sufficient to define an identifiable patient (e.g., initials, age, sex) or an identifiable reporter (e.g., initials, address, qualification). It is also

[1] This guidance represents the agency's current thinking on data elements for the transmission of individual case safety reports. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

recognized that the patient and the reporter may be the same individual and still fulfill the minimum reporting criteria.

In addition, in order to properly process the report, the following administrative information is needed: The sender identifier (A.3.1.2), the report identification number(s) (A.1.10), and the date of receipt of the most recent information (A.1.7) (see user guidance for A.1.7).

2. Guidance: Content of the Data Elements

The data elements are divided into sections pertaining to:

A: Administrative and Identification Information
A.1 - Identification of the case safety report
A.2 - Primary source(s) of information
A.3 - Information on sender and receiver of case safety report
B: Information on the Case:
B.1 - Patient characteristics
B.2 - Reaction(s)/event(s)
B.3 - Results of tests and procedures relevant to the investigation of the patient
B.4 - Drug(s) information
B.5 - Narrative case summary and further information

A. Administrative and Identification Information

A.1 Identification of the case safety report

A.1.1 Identification of the country of the primary source

User Guidance:

Generally, this item would be the only country provided. Provisions are made to include other countries for unusual cases concerning foreign travel and sources of manufactured material (A.1.2 and B.4.k.2.3).

Note concerning transmission:

The codes for countries are defined by the transmission standard.

A.1.2 Identification of the country where the reaction/event occurred

User Guidance:

For example, if the reaction was detected while the patient was traveling, but the report was made by a health professional on the patient's return.

A.1.3 Date of this transmission

Note concerning transmission:

Full precision date, i.e., day, month, and year.

A.1.4 Type of report

- Spontaneous report
- Report from study
- Other
- Not available to sender (unknown)

User Guidance:

A separate category for the designation of a literature source is covered in item A.2.2 and is not duplicated in this section which is intended to capture the type of report. If the case in the literature arises from spontaneous observations, type should be *Spontaneous report*; if the case arises from a study, type should be *Report from study*. If it is unclear from the literature report whether the case(s) cited are spontaneous observations or arise from a study, then this item should be *Other*.

Differentiation between types of studies, e.g., clinical trials or others, is given in section A.2.3.3.

The *Not available to sender* option allows for the transmission of information by a secondary sender (e.g., regulatory authority) where the initial sender did not specify the type of report; it differs from *Other* which indicates the sender knows the type of report but cannot fit it into the categories provided.

A.1.5 Seriousness

A.1.5.1. Serious

- Yes/no

A.1.5.2. Seriousness criteria (more than one can be chosen)

- Results in death
- Is life-threatening
- Requires inpatient hospitalization or prolongation of existing hospitalization
- Results in persistent or significant disability/incapacity (as per reporter's opinion)
- Is a congenital anomaly/birth defect
- Other medically important condition

User Guidance:

The terms *life-threatening and other medically important condition* are defined in the ICH E2A guidance. All the criteria apply to the case as a whole and should not be confused with the outcome(s) of individual reactions(s)/event(s) that are provided in section B.2.i.9.

A.1.6 Date report was first received from source

User Guidance:

For senders dealing with initial information, this should always be the date received from the primary source. When retransmitting information received from another regulatory agency or another company or any other secondary source, receivers should use the date they first received the information.

Note concerning transmission:

Full precision date, i.e., day, month, and year.

A.1.7 Date of receipt of the most recent information for this report

User Guidance:

Because reports are required to be sent at different times to multiple receivers, the initial/follow up status is dependent upon the receiver. For this reason, an item to capture followup status is not included. However, the date of receipt of the most recent information taken together with the ''sender identifier'' (A.3.1.2) and sender's ''report identification number'' (A.1.10) provide a mechanism for each receiver to identify whether the report being transmitted is an initial or followup report. For this reason, these items are considered necessary for each transmission.

Note concerning transmission:

Full precision date, i.e., day, month, and year.

A.1.8 Additional available documents held by sender

A.1.8.1 Are additional documents available?

- Yes/no

A.1.8.2 List of documents held by sender

User Guidance:

List the documents received from the primary source (e.g., clinical records, hospital records, autopsy reports). It is recognized that these documents may not be obtainable in many instances.

Note concerning transmission:

Free text.

A.1.9 Does this case fulfill the local criteria for an expedited report?

- Yes/no

User Guidance:

This item is used to provide the sender's local reporting requirements, and the definition of expedited is dependent on the local regulatory requirements. When the countries of origin and destination of the transmission differ, the receiver should be aware that the information may not be applicable to their regulatory requirements.

A.1.10 Report identification number(s)

A.1.10.1 National regulatory authority's case report number

A.1.10.2 Company's case report number

A.1.10.3 Other sender's case report number

User Guidance:

A.1.10.1 and A.1.10.2 are the identifiers given by a national regulatory authority and by a company, respectively. Both identifiers may be transmitted if known. Companies should ensure a single international report number to facilitate the unique identification of a report that may have been sent to many places and subject to multiple retransmissions. A.1.10.3 would be used by senders who are not representing either a pharmaceutical company or a national regulatory authority.

Note concerning transmission:

Alpha/numeric data.

A.1.11 Suspected duplicate

- Yes

User Guidance:

This item is used when the sender suspects or knows that the report has already been transmitted to the receiver. Only an affirmative answer is needed, otherwise the item is left empty. If known, the suspect duplicate case report number(s) and the other sender(s), where applicable, can be provided.

A.1.11.1 Source(s) of the duplicate (e.g., name of the company, name of regulatory agency)

A.1.11.2 Case report number of the suspected duplicate(s)

Note concerning transmission:

Alpha/numeric data for the number and source.

A.1.12 Identification number of the report which is linked to this report (repeat as necessary)

User Guidance:

This section is used in the case of, e.g., a mother-child pair where both had reactions/events or siblings with common exposure, or several reports involving the same patient, or several similar reports from same reporter (cluster). These links do not refer to duplicates, but to links of clinical relevance (the reactions/events are shared among patients or in the same patient and appear pertinent to each other).

Note concerning transmission:

Alpha/numeric data.

A.1.13 Report nullification

- Yes

User Guidance:

This item is used to indicate that a previously transmitted report should be considered completely void (nullified), for example when the whole case was found to be erroneous. It is essential to use the same case report number previously submitted.

A.1.13.1 Reason for nullification

Note concerning transmission:

Free text.

A.1.14 Was the case medically confirmed, if not initially from a health professional?

- Yes/no

User Guidance:

This section is completed if the primary source of information was a lawyer, consumer, or other nonhealth professional and it is needed because of differences in postmarketing surveillance regulations concerning lay reports.

A.2 Primary source(s) of information

The primary source(s) of the information is a person who reports the facts. This should be distinguished from senders (secondary sources) who are transmitting the information, e.g., industry to regulatory authority.

Any or all of the three subsections (A.2.1, A.2.2, A.2.3) can be used. In the case of a published study or published individual case, the reporter would be the investigator or first author, and details on publication and trial type should also be provided.

A.2.1 Primary source(s) (repeat as necessary)

A.2.1.1 Reporter identifier (name or initials)

User Guidance:

The identification of the reporter may be prohibited by certain national confidentiality laws or directives. The information is only provided when it is in conformance with the confidentiality requirements and this guidance applies to all the subsections of A.2.1. Notwithstanding the above, at least one subsection should be completed to fulfill the general need of having an identifiable reporter. If only the name of the reporter is known and it is prohibited to provide it because of confidentiality requirements, initials can be used.

A.2.1.2 Reporter's address

Note concerning transmission:

The format for addresses are defined in the transmission standard.

A.2.1.3 Country

Note concerning transmission:

The codes for countries are defined by the transmission standard.

A.2.1.4 Qualification

- Physician
- Pharmacist
- Other health professional
- Lawyer
- Consumer or other nonhealth professional

User Guidance:

In some regions, consumer and lawyer reports are transmitted only when there is medical confirmation.

A.2.2 Literature reference(s)

User Guidance:

References are provided in the Vancouver Convention (known as ''Vancouver style'') as developed by the International Committee of Medical Journal Editors. The standard format, as well as those for special situations, can be found in the following reference, which is in the Vancouver style.

International Committee of Medical Journal Editors, Uniform requirements for manuscripts submitted to biomedical journals, *New England Journal of Medicine*, 1997; 336:309–15.

Note concerning transmission:

Alpha/numeric data.

A.2.3 Study identification

A.2.3.1 Study name

A.2.3.2 Sponsor study number

User Guidance:

This section would be completed only if the sender is the study sponsor or has been informed of the study number by the sponsor.

A.2.3.3 Study type in which the reaction(s)/event(s) were observed

- Clinical trials
- Individual patient use, e.g., ''compassionate use'' or named patient basis
- Other studies

User Guidance:

Other studies include pharmacoepidemiology, pharmacoeconomics, intensive monitoring, PMS, etc.

A.3 Information on sender and receiver of case safety report

A.3.1 Sender

A.3.1.1 Type

- Pharmaceutical company
- Regulatory authority
- Health professional
- Regional pharmacovigilance center
- WHO collaborating center for international drug monitoring
- Other (e.g., distributor, study sponsor, or contract research organization)

User Guidance:

In this context, a pharmaceutical company includes biotechnology companies and other manufacturers required to submit individual case safety reports.

A.3.1.2 Sender identifier

User Guidance:

Identifies the sender, e.g., company name or regulatory authority name. This item should always be completed.

A.3.1.3 Person responsible for sending the report

User Guidance:

Name of person in the company or agency who is responsible for the authorization of report dissemination. This would usually be the same person who signs the covering memo for paper submissions. The inclusion of the name of this person in the transmission may be subject to national or international regulations.

A.3.1.4 Sender's address, fax, telephone and e-mail address

A.3.2 Receiver

User Guidance:

See the user guidance concerning the sender (A.3.1).

A.3.2.1 Type

- Pharmaceutical company
- Regulatory authority
- Regional pharmacovigilance center
- WHO collaborating center for international drug monitoring
- Other (e.g., a company affiliate or a partner)

A.3.2.2 Receiver identifier (see glossary)

A.3.2.3 Receiver's address, fax, telephone and e-mail address

B. Information on the Case

B.1 Patient characteristics

User Guidance:

In cases where a fetus or suckling infant sustains an adverse reaction/event, information on both the parent and the child/fetus should be provided. Reports of these cases are referred to as parent-child/fetus report. Several general principles are used for filing these reports. If there has been no reaction/event affecting the child/fetus, the parent-child/fetus report does not apply. For those cases describing fetal demise or early spontaneous abortion, only a parent report is applicable. If both the parent and the child/fetus sustain adverse events, two reports are provided, but they are linked by using sections A.1.12 in each of the reports. When only the child/fetus has an adverse reaction/event (other than early spontaneous abortion/fetal demise), the information provided in this section applies to the child/fetus, and characteristics concerning the parent who was the source of exposure to the drug are provided in section B.1.10.

B.1.1 Patient (name or initials)

User Guidance:

The identification of the patient may be prohibited by certain national confidentiality laws or directives. The information is only provided when it is in conformance with the confidentiality requirements. This also applies to medical record number(s) (B.1.1.1).

B.1.1.1 Patient medical record number(s) and source(s) (if allowable)

User Guidance:

Record numbers may include the general practitioner and/or specialist record(s) number(s), hospital record(s) numbers, or patient/subject identification number in a study.

Note concerning transmission:

Alpha/numeric data.

B.1.2 Age information

User Guidance:

To be used according to the most precise information available.

B.1.2.1 Date of birth

User Guidance:

If the full date of birth is not known, use section B.1.2.2

Note concerning transmission:

Full precision date, i.e., day, month, and year.

B.1.2.2 Age at time of onset of reaction/event

User Guidance:

If several reactions/events are in the report, use the *Age at the time of the first reaction/event*. For fetal reaction(s)/event(s), use the next item *Gestation period when reaction/event was observed* (B.1.2.2.1).

When providing the age in decades, please note that, for example, the 7th decade refers to a person in their 60's.

Note concerning transmission:

The codes to be used are defined in the transmission standard but should include various age units (days, weeks, months, years, decades).

B.1.2.2.1 Gestation period when reaction/event was observed in the fetus

User Guidance:

The gestation period at the time of exposure is captured in section B.4.k.10.

Note concerning transmission:

Number and units (days, weeks, months or trimester).

B.1.2.3 Patient age group (as per reporter)

- Neonate
- Infant
- Child
- Adolescent
- Adult
- Elderly

User Guidance:

The terms are not defined in this document and are intended to be used as they were reported by the primary source. This section should be completed only when the age is not provided more specifically in sections B.1.2.2 or B.1.2.3.

B.1.3 Weight (kg)

User Guidance:

The weight at the time of the event/reaction.

Note concerning transmission:

The codes for items B.1.3–B.1.5 are defined in the transmission standard.

B.1.4 Height (cm)

B.1.5 Sex

B.1.6 Last menstrual period date

Note concerning transmission:

Imprecise dates are acceptable, i.e., month and year, or year only.

B.1.7 Relevant medical history and concurrent conditions (not including reaction/event)

B.1.7.1 Structured information (repeat as necessary)

Disease/surgical procedure/etc.	Start date	Continuing Y/N/U	End date	Comments

User Guidance:

Medical judgment should be exercised in completing this section. Information pertinent to understanding the case is desired, such as diseases, conditions such as pregnancy, surgical procedures, psychological trauma. Each of the items in the table can be repeated as necessary. If precise dates are not known and a text description aids in understanding the medical history, or if concise additional information is helpful in showing the relevance of the past medical history, this information can be included in the comments column.

Note concerning transmission:

Imprecise dates may be used for both start and end dates. The continuing column should accept values for yes, no, and unknown; and the main descriptive column should have alpha data in concordance with the controlled vocabulary being developed.

B.1.7.2 Text for relevant medical history and concurrent conditions (not including reaction/event)

User Guidance:

To be used if structured information is not available in the sender's database. Otherwise, it is preferable to send structured data in segment B.1.7.1.

Note concerning transmission:

Free text.

B.1.8 Relevant past drug history (repeat the line as necessary)

Name of drug as reported	Start date	End date	Indication	Reactions

User Guidance:

This segment concerns previously taken drugs, but not those taken concomitantly or drugs that may have potentially been involved in the current reaction(s)/event(s). Information concerning concomitant and other suspect drugs is included in section B.4. The information provided here may also include previous experience with similar drugs. Medical judgment should be exercised in completing this section. When completing the item concerning the name of the drug it is important to use the words provided by the primary source. Trade name, generic name, or class of drug can be used. The term ''none'' should be used when appropriate, e.g., when there is no previous exposure to the drug or vaccine, or no previous reaction following exposure.

Note concerning transmission:

The data element for name of drug should accept alpha/numeric data and include provisions for accepting the word none. The data elements for reactions and indications should conform to the controlled vocabulary when fully implemented. Both dates may be imprecise.

B.1.9. In case of death

B.1.9.1 Date of death

Note concerning transmission:

Imprecise date format.

B.1.9.2 Reported cause(s) of death (repeat as necessary)

Note concerning transmission:

Controlled vocabulary should be used when fully implemented.

B.1.9.3 Was autopsy done?

- Yes/no/unknown

B.1.9.4 Autopsy-determined cause(s) of death (repeat as necessary)

Note concerning transmission:

Controlled vocabulary should be used when fully implemented.

B.1.10 For a parent-child/fetus report, information concerning the parent

User Guidance:

This section is used only in the case of a parent-child/fetus report where the parent had no reaction/event. See user guidance for section B.1. Guidance regarding confidentiality is provided in B.1.1 and should be considered before providing the parent identification. For the subsections B.1.10.4 through B.1.10.8, review the guidances provided for B.1.3 through B.1.5 and B.1.7 through B.1.8.

B.1.10.1 Parent identification

B.1.10.2 Parent age information

User Guidance:

Use the date of birth if the precise birthday is known, otherwise use age.

B.1.10.2.1 Date of birth of parent

Note concerning transmission:

Full precision date.

B.1.10.2.2 Age of parent

B.1.10.3 Last menstrual period date

User Guidance:

If a precise date is not available, complete the gestation period at time of exposure in B.4.k.10.

Note concerning transmission:

Full precision date.

B.1.10.4 Weight (kg) of parent

B.1.10.5 Height (cm) of parent

B.1.10.6 Sex of parent

B.1.10.7 Relevant medical history and concurrent conditions of parent (not including reaction/event)

B.1.10.7.1 Structured information (parent)

Disease/surgical procedure/etc.	Start date	Continuing Y/N/U	End Date	Comments

B.1.10.7.2 Text for relevant medical history and concurrent conditions of parent (not including reaction/event)
B.1.10.8 Relevant past drug history of parent

Name of drug as reported	Start date	End date	Indication	Reactions (if any and known)

B.2 Reaction(s)/event(s)

User Guidance:

The designation of ''i'' in this section indicates that each item is repeatable and that it carries an appropriate correspondence to the same ''i'' in all subsections. A separate block (i) should be used for each reaction/event term. For example, if two reactions are observed, the first reaction would be described in items B.2.1.1 through B.2.1.9, and the other reaction would be described in items B.2.2.1 through B.2.2.9.

B.2.i.1 Reaction/event as reported by the primary source

User Guidance:

The original reporter's words and/or short phrases are used to describe the reaction/event. This should be provided in a language agreed upon by sender and receiver. For international transmissions, English is the generally accepted language.

Note concerning transmission:

Alpha/numeric data.

B.2.i.2 Reaction/event term

User Guidance:

The term can be a sign, symptom, or diagnosis. A controlled vocabulary should be used when available. This also applies to the other items of structured data, such as indication, diseases in past medical history.

Note concerning transmission:

Alpha/numeric data.

B.2.i.3 Term highlighted by the reporter

- Yes

User Guidance:

To be used when the primary source indicated that the reaction/event was a major concern or reason for reporting the case. If the information is not explicitly provided by the initial reporter, the item should be left blank. Only affirmative answers are needed.

B.2.i.4 Date of start of reaction/event
B.2.i.5 Date of end of reaction/event
B.2.i.6 Duration of reaction/event

User Guidance:

This section can usually be computed from start/end of reaction/event. However, sometimes, both dates and duration are useful, e.g., for a reaction/event of short duration such as anaphylaxis or arrhythmia.

Note concerning transmission:

Imprecise dates may be used and the duration is defined by the transmission standard.

B.2.i.7 Time intervals between suspect drug administration and start of reaction/event

User Guidance:

The major uses of intervals are to cover circumstances where both the dates are known but the interval is very short (e.g., minutes, such as in anaphylaxis), and when only imprecise dates are known but more information concerning the interval is known. Dates, if available, should always be transmitted in the appropriate fields rather than intervals.

When there is more than one reaction/event and more than one suspect drug, there is a matrix of intervals between the exposures and reactions/events. B.2.i.7 captures the interval between each reaction/event and one suspect drug. B.4.k.13 captures the interval between each suspect drug and one reaction/event. The sender should choose the drug and reaction/event considered based on information available and/or the reporter's judgment. The complexity of the intervals highlights the desirability of providing dates.

Note concerning transmission:

Codes are defined in the transmission standard.

B.2.i.7.1 Time interval between beginning of suspect drug administration and start of reaction/event
B.2.i.7.2 Time interval between last dose and start of reaction/event
B.2.i.8 Outcome of reaction/event at the time of last observation

- Recovered/resolved
- Recovering/resolving
- Not recovered/not resolved
- Recovered/resolved with sequelae
- Fatal
- Unknown

User Guidance:

In case of irreversible congenital anomalies, the choice *Not recovered/not resolved* should be used. *Fatal* should be used when death is possibly related to the reaction/event. Considering the difficulty of deciding between ''reaction/event caused death'' and ''reaction/event contributed significantly to death'', both were grouped in a single category. Where, according to both the reporter and the sender, the death is unrelated to the reaction/event, ''death'' should not be selected here, but is reported only under section B.1.9.

B.3 Results of tests and procedures relevant to the investigation of the patient

User Guidance:

This section captures the tests and procedures performed to diagnose or confirm the reaction/event, including those tests done to investigate (exclude) a nondrug cause, e.g., serologic tests for infectious hepatitis in suspected drug-induced hepatitis. Both positive and negative results should be reported. While structured information is preferable, provisions are made to transmit the information as free text in B.3.2.

B.3.1 Structured information (repeat as necessary)

Date	Test	Result	Unit	Normal low range	Normal high range	More information available (Y/N)

Note concerning transmission:

Imprecise dates may be used. The description of the tests, results, units, and normal ranges will be in free text unless covered by a controlled vocabulary. The column entitled ''more information available'' accepts only yes or no.

B.3.2 Results of tests and procedures relevant to the investigation

Note concerning transmission:

Free text.

B.4 Drug(s) information

User Guidance:

This section covers both suspect drugs and concomitant medications, including biologicals. In addition, the section can be used to identify drugs thought to have an interaction. For each drug, the characterization of the drug role (B.4.k.1) is that indicated by the primary reporter, i.e., the original source of the information. The designation of ''k'' in this section indicates that each item is repeatable and that it carries an appropriate correspondence to the same ''k'' in all subsections. A separate block (k) should be used for each drug. Drugs used to treat the reaction/event should not be included here.

B.4.k.1 Characterization of drug role

- Suspect/concomitant/interacting

User Guidance:

Characterization of the drug as provided by primary reporter. By convention, all spontaneous reports have at least one suspect drug.

B.4.k.2 Drug identification

User Guidance:

Drug substance name and/or proprietary medicinal product name is provided as it was reported.

B.4.k.2.1 Proprietary medicinal product name

User Guidance:

The name should be that used by the reporter. It is recognized that a single product may have different proprietary names in different countries, even when produced by a single manufacturer.

Note concerning transmission:

Alpha/numeric data.

B.4.k.2.2 Active substance name(s)

User Guidance:

Provide the international nonpropriety name(s) (INN(s)) or drug substance name(s) or drug identification code(s) if no name exists. For combination products, each active ingredient should be specified. This information, as well as that requested for *Proprietary medicinal product name* (B.4.k.2.1), may not be known for concomitant or interacting drugs when the sender is a pharmaceutical company. In the case of blinded trials, in the exceptional circumstance when the blind has not been broken, the word ''blinded'' should precede the names of the drugs included in the study. Placebo can be included as a drug.

B.4.k.2.3 Identification of the country where the drug was obtained

Note concerning transmission:

The codes for countries are defined by the transmission standard.

B.4.k.3 Batch/lot number

User Guidance:

This information is particularly important for vaccines and biologicals. The section allows for multiple batch/lot numbers, each separated by a delimiter defined by the transmission standard chosen. Provide the most specific information available. For expiration date and other related information, see additional information on drug (B.4.k.19).

Note concerning transmission:

Alpha/numeric data, the delimiter to separate batch and lot numbers to be defined by the transmission standard.

B.4.k.4 Holder and authorization/application number of drug

User Guidance:

If relevant and known, provide the name of the holder and the authorization number in the country where the drug was obtained when the case report is sent to that country. These items apply to both applications and authorizations. Pharmaceutical companies provide this information for their own suspect drug(s).

B.4.k.4.1 Authorization/application number

Note concerning transmission:

Alpha/numeric data.

B.4.k.4.2 Country of authorization/application

Note concerning transmission:

The codes for countries are defined by the transmission standard.

B.4.k.4.3 Name of holder/applicant

Note concerning transmission:

Alpha/numeric data.

B.4.k.5 Structured dosage information

E.g., 2 milligrams (mg) three times a day for 5 days

B.4.k.5.1 dose (number): 2

B.4.k.5.2 dose (unit): mg

B.4.k.5.3 number of separate dosages: 3

B.4.k.5.4 number of units in the interval: 1

B.4.k.5.5 definition of the interval unit: day

B.4.k.5.6 cumulative dose to first reaction (number): 30

B.4.k.5.7 cumulative dose to first reaction (unit): mg

User Guidance:

Please note the side-by-side illustration of how the structured dosage is provided. For the more complex example of 5 mg (in one dose) every other day for 30 days, subsections B.4.k.5.1 through B.4.k.5.7 would be 5, mg, 1, 2, day, 75, mg, respectively. In the same way, 50 mg daily for 2 days would be 50, mg, 1, 1, day, 100, mg. For prolonged chronic therapy, the sender should consider the need to complete the cumulative dose sections.

In the case of a parent-child/fetus report, the dosage section applies to the parental dose.

For dosage regimen that involve more than one dosage form and/or changes in dosage, the information is provided in section B.4.k.6 as text. Alternatively, the sender can provide more than one iteration (k) for the same drug. Categories for ''dose unit'' and for ''definition of the interval'' are described in Attachment 1.

B.4.k.6 Dosage text

User Guidance:

To be used in cases where provision of structured dosage information is not possible.

Note concerning transmission:

Free text.

B.4.k.7 Pharmaceutical form (Dosage form)

User Guidance:

E.g., tablets, capsules, syrup.

Note concerning transmission:

Free text until a controlled vocabulary is available.

B.4.k.8 Route of administration

User Guidance:

See suggested vocabulary in the route of administration list in Attachment 2. For a parent-child/fetus report, this indicates the route of administration of a drug given to the child/fetus. This is usually an indirect exposure, such as transmammary, but can include more usual routes of administration for other drugs given to the child. The parent route of administration is provided in B.4.k.9.

B.4.k.9 Parent route of administration (in case of a parent child/fetus report)

User Guidance:

This section is used only in a parent-child/fetus report and linked parent reports to indicate the route of administration to the parent.

B.4.k.10 Gestation period at time of exposure

User Guidance:

Use the gestational age at the time of the earliest exposure

Note concerning transmission:

Gestation period at time of exposure is expressed by providing both a number and designation of units of days, weeks, months, or trimester.

B.4.k.11 Indication for use in the case

User Guidance:

The indication as reported.

Note concerning transmission:

Controlled vocabulary to be used when fully implemented.

B.4.k.12 Date of start of drug

Note concerning transmission:

Imprecise date formats in this section as well as in B.4.k.14.

B.4.k.13 Time intervals between drug administration and start of reaction/event

User Guidance:

The major uses of intervals are to cover circumstances where both the dates are known but the interval is very short (e.g., minutes, such as in anaphylaxis), and when only imprecise dates are known but more information concerning the interval is known. Dates, if available, should always be transmitted in the appropriate items rather than intervals.

When there is more than one reaction/event and more than one suspect drug, there is a matrix of intervals between the exposures and reactions/events. B.2.i.7 captures the interval between each reaction/event and one suspect drug. B.4.k.13 captures the interval between each suspect drug and one reaction/event. The sender should select the drug and reaction/event based on information available and/or the reporter's judgment.

Note concerning transmission:

The format for intervals is defined in the transmission standard.

B.4.k.13.1 Time interval between beginning of drug administration and start of reaction/event
B.4.k.13.2 Time interval between last dose of drug and start of reaction/event
B.4.k.14 Date of last administration

User guidance:

For ongoing drug administration after the onset of the reaction/event, leave this item blank and use *Action(s) taken with drug* (B.4.k.16).

B.4.k.15 Duration of drug administration

User Guidance:

This item is used if exact dates of drug administration are not available at the time of the report, but there is information concerning the duration of drug administration. The information requested is the overall duration of drug administration and covers intermittent administration.

Note concerning transmission:

The format is defined in the transmission standard.

B.4.k.16 Action(s) taken with drug

- Drug withdrawn
- Dose reduced
- Dose increased
- Dose not changed
- Unknown
- Not applicable

User Guidance:

These data, taken together with the outcome of the reaction (B.2.i.8), provide the information concerning dechallenge. *Not applicable* is used in circumstances such as if the patient died or the treatment had been completed prior to reaction/event.

B.4.k.17 Effect of rechallenge (or re-exposure), for suspect drug(s) only
B.4.k.17.1 Did reaction recur on readministration?

- Yes/no/unknown

User Guidance:

Unknown indicates that a rechallenge was done, but it is not known if the event recurred. This segment is not to be completed if it is unknown whether a rechallenge was done.

B.4.k.17.2 If yes to item B.4.k.17.1, which reaction(s)/event(s) recurred?

Note concerning transmission:

Controlled vocabulary to be used when fully implemented.

B.4.k.18 Relatedness of drug to reaction(s)/event(s) (repeat B.4.k.18.1 through B.4.k.18.4 as necessary)

User Guidance:

This section provides the means to transmit the degree of suspected relatedness of each drug to the reaction(s)/event(s). The repeating items could also be used to provide the assessment of relatedness by different sources or methods of assessment. For the purpose of reporting, there is a conventional implied suspected causality for spontaneous reports. It is recognized that information concerning the relatedness, especially for spontaneous reports, is often subjective and may not be available.

Note concerning transmission:

For subsection B.4.k.18.1, the controlled vocabulary, when fully implemented, should be used. For subsections B.4.k.18.2 through B.4.k.18.4, alpha/numeric data with uncontrolled vocabulary should be used.

B.4.k.18.1 Reaction assessed

User Guidance:

Generally the reaction assessed is the most important or the most serious.

B.4.k.18.2 Source of assessment

User Guidance:

E.g., initial reporter, investigator, regulatory agency, company.

B.4.k.18.3 Method of assessment

User Guidance:

E.g., global introspection, algorithm, Bayesian calculation.

B.4.k.18.4 Result
B.4.k.19 Additional information on drug

User Guidance:

Use to specify any additional information pertinent to the case that is not covered by above sections (e.g., beyond expiration date, batch and lot tested and found to be within specifications).

B.5 Narrative case summary and further information
B.5.1 Case narrative including clinical course, therapeutic measures, outcome, and additional relevant information.

User guidance:

Focused, factual, and clear description of the case.

Note concerning transmission:

Free text.

B.5.2 Reporter's comments

User Guidance:

Use for including the reporter's comments on the diagnosis, causality assessment or other issues considered relevant.

B.5.3 Sender's diagnosis/syndrome and/or reclassification of reaction/event

User Guidance:

This section provides the sender with an opportunity to combine signs and symptoms that were reported into a succinct diagnosis and the reasoning would be included in section B.5.4.

Note concerning transmission:

Uncontrolled vocabulary until the controlled vocabulary is fully implemented.

B.5.4 Sender's comments

User Guidance:

This section provides information concerning the sender's assessment of the case and may be used to describe disagreement with and/or alternatives to the diagnoses given by the initial reporter.

Note concerning transmission:

Free text.

3. Glossary

Parent-child/fetus report: Report in which the administration of medicines to a parent results in a suspected reaction/event in a child/fetus.

Receiver: The intended recipient of the transmission.

Reporter: Reporter is primary source of the information, i.e., a person who initially reports the facts. This should be distinguished from the sender of the message, though the reporter could also be a sender.

Sender: The person or entity creating the message for transmission. Although the reporter and sender may be the same person, the function of the sender should not be confused with that of the reporter.

Attachment 1

Unit List

Mass

kg	kilogram(s)
g	gram(s)
mg	milligram(s)
µg	microgram(s)
ng	nanogram(s)
pg	picogram(s)
mg/kg	milligram(s)/kilogram
µg/kg	microgram(s)/kilogram
mg/m²	milligram(s)/sq. meter
µg/m²	microgram(s)/sq. meter

Radioactivity

Bq	becquerel(s)
GBq	gigabecquerel(s)
MBq	megabecquerel(s)
Kbq	kilobecquerel(s)
Ci	curie(s)
mCi	millicurie(s)
µCi	microcurie(s)
nCi	nanocurie(s)

Volume

l	litre(s)
ml	millilitre(s)
µl	microlitre(s)

Other

mol	mole(s)
mmol	millimole(s)
µmol	micromole(s)
iu	international unit(s)
kiu	iu(1000s)
Miu	iu(1,000,000s)
iu/kg	iu/kilogram
mEq	milliequivalent(s)
%	percent
gtt	drop(s)
DF	dosage form

User Guidance:

This is the suggested list of units. When having other measure units, transformation is recommended if possible. Otherwise use the free text field.

Definition of Interval List

Minutes
Hours
Days
Weeks
Months
Years
Cyclical
As necessary
Total

Attachment 2

Route of Administration List

Auricular (otic)
Buccal
Cutaneous
Dental
Endocervical
Endosinusial
Endotracheal
Epidural
Extra-amniotic
Hemodialysis
Intra corpus cavernosum
Intra-amniotic
Intra-arterial
Intra-articular
Intra-uterine
Intracardiac
Intracavernous
Intracerebral
Intracervical
Intracisternal

Intracorneal
Intracoronary
Intradermal
Intradiscal (intraspinal)
Intrahepatic
Intralesional
Intralymphatic
Intramedullar (bone marrow)
Intrameningeal
Intramuscular
Intraocular
Intrapericardial
Intraperitoneal
Intrapleural
Intrasynovial
Intratumor
Intrathecal
Intrathoracic
Intratracheal
Intravenous bolus
Intravenous drip
Intravenous (not otherwise specified)
Intravesical
Iontophoresis
Nasal
Occlusive dressing technique
Ophthalmic
Oral
Oropharyngeal
Other
Parenteral
Periarticular
Perineural
Rectal
Respiratory (inhalation)
Retrobulbar
Subconjunctival
Subcutaneous
Subdermal
Sublingual
Topical
Transdermal
Transmammary
Transplacental
Unknown
Urethral
Vaginal

Dated: January 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–959 Filed 1-14-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0391]

Micronutrient Requirements for Preterm Infant Formulas; Announcement of Study; Request for Scientific Data and Information; Announcement of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Life Sciences Research Office (LSRO) of the American Society of Nutritional Sciences (ASNS) is undertaking an assessment of the scientific basis for the need to establish specific recommendations (minimum and maximum levels) for intake by preterm infants of micronutrients, that is, the vitamins and minerals specified in the Federal Food, Drug, and Cosmetic Act (the act) and selenium, molybdenum, chromium, and fluoride. To assist in this task, LSRO/ASNS is inviting the submission of scientific data and information on this topic and will provide an opportunity for oral presentations at an open meeting.

DATES: The LSRO will hold a 1-day public meeting on this topic on Friday, March 27, 1998. The meeting will begin at 9 a.m. Requests to make oral presentations at the open meeting must be submitted in writing and received by Friday, February 13, 1998. Hard copies of oral presentations should be delivered by Friday, March 20, 1998. Individuals may submit, in writing, scientific data, information, and views by July 1, 1998.

ADDRESSES: The open meeting will be held in the Chen Auditorium, Lee Bldg., American Society of Nutritional Sciences, 9650 Rockville Pike, Bethesda, MD. Written requests to make oral presentations of scientific data, information, and views at the open meeting should be submitted both to Daniel J. Raiten (address below) and to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of the scientific data, information, and views should be submitted to each office. These two copies are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Raiten, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814-3998, 301–530–7030, or

Linda H. Tonucci, Center for Food Safety and Applied Nutrition (HFS–456), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5372.

SUPPLEMENTARY INFORMATION: FDA has a contract (223–92–2185) with ASNS concerning the analysis of scientific issues that bear on the safety of foods and cosmetics. The objectives of this contract are to provide information to FDA on general and specific issues of scientific fact associated with the analysis of human nutrition.

Infant formulas for use by infants with low birth-weight are subject to regulation under 412(h) of the act (21 U.S.C. 350a(h)). Exempt infant formulas are permitted to have nutrients or nutrient levels that are different from those that are codified in 21 CFR 107.100, if the manufacturer of the infant formula can justify the nutrient deviation. The agency believes that some deviations from the nutrient requirements established for term infants may be appropriate to promote healthy growth and development in low birth-weight preterm infants. These deviations have yet to be defined. Consequently, FDA has asked ASNS to perform a review to consider whether there is a scientific basis for having different recommendations for micronutrients in formulas for low birth-weight preterm infants.

FDA is announcing that it has asked ASNS, as a task under contract 223–92–2185, to provide FDA's Center for Food Safety and Applied Nutrition with an up-to-date review of the nutrient requirements of low birth-weight preterm infants, including a review of the implications of these requirements on the need for recommendations for levels of nutrients in formulas for these infants. In response to this request, ASNS has directed its LSRO to obtain state-of-the-art scientific information on low birth-weight preterm infant nutrient requirements and related scientific questions on specifications for preterm infant formula. The LSRO/ASNS will undertake a study and prepare a documented scientific report that summarizes the available information related to these issues.

LSRO/ASNS will perform an assessment of the nutrient requirements for infant formulas intended for use by preterm (low birth-weight) infants that addresses the following issues:

(1) What scientific basis is there to specify requirements for micronutrients in infant formulas intended for use by low birth-weight preterm infants? The American Academy of Pediatrics, the European Society for Pediatric Gastroenterology and Nutrition, and the Canadian Pediatric Society have proposed nutrient requirements for low birth-weight infants distinct from those for term infants. Has scientific knowledge advanced to the point to warrant distinct micronutrient composition standards for formulas for low birth-weight preterm infants?

(2) Micronutrient requirements of preterm infants fed enteral formulas are sometimes described according to a first or transition stage (between birth and 10 days of age), a stable growing stage (from about 10 days until discharge

from the hospital, often 6 to 8 weeks after birth), and a postdischarge stage (from discharge home to approximately 1 year). Is there scientific evidence to support more than one set of micronutrient requirements for infant formulas to support healthy growth and development of the preterm infant at the different stages of development? Are the micronutrient requirements for term infant formulas sufficient for thriving postdischarge preterm infants?

(3) What is the scientific evidence to support a dietary recommendation for a minimum and a maximum quantitative nutrient concentration for selenium, chromium, molybdenum, and fluoride in preterm infant formulas? What limits of intake would ensure safe and adequate exposure to these nutrients? Is there a need to specify the chemical form or other characteristics of these nutrients or their sources to ensure safety and adequacy?

(4) Certain micronutrient interactions, such as vitamin E:linoleic acid, vitamin B6:protein, and calcium:phosphorus, have been identified for full-term infants which have helped to ensure the adequacy of full-term formulas. Are there micronutrient interactions that can be identified for preterm infants that will help to ensure the nutrient adequacy of infant formulas for this population? Are there recommended ratios for metal cations? Is the evidence of interaction between these minerals sufficiently strong to suggest that the ratios should be ensured for the health of preterm infants?

(5) In an earlier task under this contract (61 FR 58566, November 15, 1996), LSRO/ASNS agreed to investigate whether there is evidence of a benefit to preterm infants from ingestion of taurine and carnitine, as well as whether there is evidence that would provide a basis for a requirement for minimal intakes of each of these substances. Is there adequate evidence of benefit of other substances not listed in this notice to support a requirement for their inclusion in preterm infant formulas?

LSRO/ASNS will use these questions as a guide in its investigation. ASNS will prepare a comprehensive final report that documents and summarizes the results of its evaluation.

FDA and ASNS are announcing that the LSRO/ASNS expects to hold a public meeting on this topic on Friday, March 27, 1998. The meeting will begin at 9 a.m. It is anticipated that the public meeting will be up to 1 day, depending on the number of requests to make oral presentations. Requests to make oral presentations at the open meeting must be submitted in writing and received by Friday, February 13, 1998. Written requests to make oral presentations of scientific data, information, and views at the open meeting should be submitted both to Daniel J. Raiten (address above) and to the Dockets Management Branch (address above). Two copies of the material to be presented must be submitted to each office on or before March 20, 1998. The open meeting will be held in the Chen Auditorium, Lee Bldg., ASNS (address above).

FDA and ASNS are also inviting submission of written presentations of scientific data, information, and views. These materials should be submitted on or before July 1, 1998. Two copies of the written materials must be submitted to each office.

In accordance with its contract with FDA, ASNS will provide the agency with a scientific report on or about September 30, 1998.

Dated: January 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–958 Filed 1–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–9044]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Provider Reimbursement Manual, Part 1—Chapter 27, Section 2721, 2722 and 2725, Request for Exception to ESRD Composite Rates and Supporting Regulations in 42 CFR 413.170; *Form No.:* HCFA–9044 (OMB# 0938–0296); *Use:* Sections 2721, 2722 and 2525 of the Provider Reimbursement Manual describe the information ESRD facilities must submit in justifying an exception request to their composite rate for outpatient dialysis services.; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions and Federal Government; *Number of Respondents:* 275; *Total Annual Responses:* 275; *Total Annual Hours:* 13,200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 7, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–1064 Filed 1–14–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of

1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–838053

Applicant: Ohio Division of Wildlife, Columbus, Ohio; Michael J. Budzik, Chief.

The applicant requests a permit to take (capture and breed in captivity) Karner blue butterfly (*Lycaeides melissa samuelis*). Capture will occur in Allegan County, Michigan, and captive breeding will occur at The Toledo Zoological Gardens, Toledo, Ohio. Activities are proposed for the purpose of preparation for future reestablishment of populations in historical areas of the species' range for the purpose of survival and enhancement of the species in the wild.

PRT–838055

Applicant: Ecological Specialists, Inc., St. Peters, Missouri; Heidi L. Dunn, President.

The applicant requests a permit to take (capture and release; relocate) Higgins' eye pearlymussel (*Lampsilis higginsi*) and winged mapleleaf mussel (*Quadrula fragosa*) in Iowa, Minnesota, and Wisconsin in the Mississippi River and all its tributary rivers. Activities are proposed for the purpose of presence/absence surveys and relocation aimed at survival and enhancement of the species in the wild.

PRT–838056

Applicant: Joseph R. Holomuzki, Ohio State University—Mansfield, Mansfield, Ohio.

The applicant requests a permit to take (capture and release) Hungerford's crawling water beetle (*Brychius hungerfordi*) in the Cheybogan River watershed, Michigan. Activities are proposed for the purpose of scientific research aimed at survival and enhancement of the species in the wild.

PRT–838058

Applicant: U.S. Army Corps of Engineers, Environmental Analysis Branch, Memphis, Tennessee; Kristin J. Pelizza, principal investigator.

The applicant requests a permit to take (capture and release) fat pocketbook [*Potamilus* (=*Proptera*) *capax*], pink mucket pearlymussel [*Lampsilis abrupta* (=*orbiculata*)], and winged mapleleaf mussel (*Quadrula fragosa*) in the following counties in Missouri: Bollinger, Butler, Cape Giradeau, Mississippi, New Madrid, Ripley, Scott, Stoddard, and Wayne. Activities are proposed to document presence or absence of the species for the purpose of survival and enhancement of the species in the wild.

PRT–838059

Applicant: David E. Kamms, Parma, Ohio.

The applicant requests a permit to take (salvage dead shells) of the following species: clubshell (*Pleurobema clava*), cracking pearlymussel [*Hemistena* (=*Lastena*) *lata*], Curtis' pearlymussel [*Epioblasma* (*Dysnomia*) *florentina curtisi*], fanshell [*Cyprogenia stegaria* (=*irrorata*)], fat pocketbook [*Potamilus* (=*Proptera*) *plenum*], Higgins' eye pearlymussel (*Lampsilis higginsi*), northern riffleshell (*Epioblasma torulosa rangiana*), orange-foot pimple back pearlymussel (*Plethobasus cooperianus*), pink mucket pearlymussel [*Lampsilis abrupta* (=*orbiculata*)], purple cat's paw pearlymussel [*Epioblasma* (=*Dysnomia*) *obliquata obliquata* (=*sulcata sulcata*)], ring pink (=golf stick pearly) mussel (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), tubercled-blossom pearlymussel [*Epioblasma* (=*Dysnomia*) *torulosa torulosa*), turgid-blossom pearlymussel [*Epioblasma* (=*Dysnomia) turgidula*], white cat's paw pearlymussel [*Epioblasma* (=*Dysnomia) obliquata perobliqua*], white wartyback pearlymussel (*Plethobasus cicatricosus*), and winged mapleleaf mussel (*Quadrula fragosa*) in the following states: Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin. Activities are proposed for the purpose of scientific research aimed at survival and enhancement of the species in the wild.

PRT–838062

Applicant: Paul R. Burton, Ephraim, Wisconsin.

The applicant requests a permit to take (salvage dead specimens; capture, harass by holding and examination, and release of live specimens) Hine's emerald dragonfly (*Somatochlora hineana*) in Door County, Wisconsin. Activities are proposed to document the morphology of the species for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x224); FAX: (612/725–3526).

Dated: January 8, 1998.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–979 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: The Field Museum, Chicago, IL, PRT–838179.

The applicant requests a permit to import tissue samples from Cuban solenodon (*Solenodon cubanus*) and Haitian solenodon (*Solenodon paradoxus*) from the collection of the Academia de Ciencias de Cuba for the purpose of scientific research. This notice covers activities conducted by the applicant over a period of five years.

Applicant: The Field Museum, Chicago, IL, PRT–838206.

The applicant requests a permit to re-export scientific specimens of the red uakari (*Cacajao calvus*) borrowed from the Swedish Museum of Natural History for purpose of scientific research.

Applicant: College of Veterinary Medicine, University of Florida, Gainesville, FL, PRT–838219.

The applicant requests a permit to import plasma samples taken from captive-hatched Galapagos tortoise (*Geochelone nigra*) at the Charles Darwin Research Station, Galapagos Islands, Ecuador for the purpose of scientific research.

Applicant: Field Museum of Natural History, Chicago, IL, PRT–838246.

The applicant requests a permit to import skin and skeletal material from eight mouse lemurs (*Microcebus* sp.) collected from the wild for the purpose of scientific research related to taxonomic studies.

Applicant: John M. La Sala, Seaford, NY PRT–838205.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus*

dorcas) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: New College of the University of South Florida, Division of Social Sciences, Sarasota, FL, PRT–837923.

Permit Type: Take for scientific research.

Name and Number of Animals: manatee (*Trichecus manatus*), 2

Summary of Activity to be Authorized: The applicant requests a permit to take two captive manatees for scientific research of manatee behavior including, visual acuity, concept formation, and motor imitation.

Source of Marine Mammals: The research involves two captive manatees housed at Mote Marine Laboratory, Sarasota, FL.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

Applicant: University of Florida, Department of Chemistry, Gainesville, FL, PRT–837797.

Permit Type: Import for Scientific Research.

Name and Number of Animals: polar bear (*Ursus maritimus*), 5 samples.

Summary of Activity to be Authorized: The applicant requests a permit to import ear punch samples surplus to Canadian researchers' studies for the purpose of scientific research related to the genetic evolution of polar bear.

Source of Marine Mammals: Canada, as described above.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Dean Palmer, Williamsport, PA, PRT–838172

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Viscount Melville Sound polar bear population, Northwest Territories, Canada prior to April 30,1994, for personal use.

Applicant: Thomas Cochran, New Castle, PA, PRT–838178

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Gulf of Boothia polar bear population, Northwest Territories, Canada prior to April 30,1994, for personal use.

Written data or comments, requests for copies of any of these complete applications, or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: January 9, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–994 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On May 26, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 58, Page 14438, that an application had been filed with the Fish and Wildlife Service by John Hoyer, Brillion, WI, for a permit (PRT–826773) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Northern Beaufort Sea population, Northwest Territories, Canada for personal use.

Notice is hereby given that on December 23, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On October 10, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 197, Page 53016, that an application had been filed with the Fish and Wildlife Service by the University of Alaska Museum, Fairbanks, AK for a permit (PRT–832903) to import biological specimens of polar bear (*Ursus maritimus*), walrus (*Odobenus rosmarus*), and sea otter (*Enhydra lutris*) for the purpose of scientific research.

Notice is hereby given that on December 22, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On October 21, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 203, Page 54648, that an application had been filed with the Fish and Wildlife Service by Lawrence Epping, Salem, OR, for a permit (PRT–835236) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Lancaster Sound population, Northwest Territories, Canada prior to April 30, 1994, for personal use.

Notice is hereby given that on December 12, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On October 10, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 197, Page 53016, that an application had been filed with the Fish and Wildlife Service by Randy Deeter, Anchorage, AK, for a permit (PRT–834963) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Lancaster Sound population, Northwest Territories, Canada. The bear Mr. Deeter hunted was taken from the Southern Beaufort Sea population. The original notice was incorrect.

Notice is hereby given that on December 16, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On October 10, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 197, Page 53016, that an application had been filed with the Fish and Wildlife Service by Frederick Steudler, Jr., Conestoga, PA, for a permit

(PRT–834952) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the McClintock Channel population, Northwest Territories, Canada for personal use.

Notice is hereby given that on December 16, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On November 5, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 214, Page 59876, that an application had been filed with the Fish and Wildlife Service by Madeline Kay, Juniper Hills, CA, for a permit (PRT–835807) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Foxe Basin population, Northwest Territories, Canada prior to April 30, 1994, for personal use.

Notice is hereby given that on January 6, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On November 5, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 214, Page 59876, that an application had been filed with the Fish and Wildlife Service by Clifford Senter, Plaistow, NH, for a permit (PRT–835809) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Lancaster Sound population, Northwest Territories, Canada prior to April 30, 1994, for personal use.

Notice is hereby given that on January 6, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: January 9, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–993 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Cow Creek Band of Umpqua Tribe of Indians in Oregon; Notice of Reservation Proclamation

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed approximately 4.41 acres as an addition to the reservation of the Cow Creek Band of Umpqua Tribe of Indians on December 19, 1997. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the reservation of the Cow Creek Band of Umpqua Tribe of Indians for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Cow Creek Band of Umpqua Tribe of Indians, Douglas County, Oregon

The following described real property is located in the Southeast quarter of Section 6 and the Northeast quarter of Section 7, Township 30 South, Range 5 West, W.M., Douglas County, Oregon, and contains 4.41 acres, more or less, according to plat 94–26163 filed in Douglas County, Oregon, on December 20, 1994.

Parcel 2 of Land Partition No. 1994–113, Partition Plat Records of Douglas County, Oregon. together with an easement 30 feet in width, for road and utilities, as set out on Land Partition No. 1994–113 and as reserved by instrument, Recorder's No. 95–6143, Records of Douglas County, Oregon.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other right-of-way or reservation of record.

Dated: December 19, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–975 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Cow Creek Band of Umpqua Tribe of Indians in Oregon; Notice of Reservation Proclamation

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed approximately 17.46 acres, more or less, as an addition to the reservation of the Cow Creek Band of Umpqua Tribe of Indians on December 19, 1997. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Chief, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the reservation of the Cow Creek Band of Umpqua Tribe of Indians for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Cow Creek Band of Umpqua Tribe of Indians, Douglas County, Oregon

The following described real property is located in the Southwest quarter of Section 22 and the Northwest quarter of Section 27, Township 30 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

Beginning at a ⅝ inch iron rod that bears South 86°07′39″ East 17.65 feet from the section corner common to Section 21, 22, 27, and 28, Township 30 South, Range 5 West, Willamette meridian, Douglas County, Oregon; thence South 86°07′39″ East 219.44 feet to a ¾ inch iron pipe; thence South 82°38′46″ East 392.92 feet to a ⅝ inch iron rod; thence South 41°03′06″ East 577.66 feet to a point marked by a fence corner post; thence North 62°45′17″ East 409.48 feet to a point located in the center of Canyon Creek; thence along said center of Canyon Creek North 15°20′21″ West 128.62 feet to a point; thence continuing along said center of Canyon Creek North 24°13′21″ West 305.60 feet to a point; thence continuing along said center of Canyon Creek North 9°49′21″ West 491.28 feet more or less to a point in the center of the South

Umpqua River; thence along said center of the South Umpqua River North 67°55′10″ West 470.14 feet to a point; thence continuing along said center of the South Umpqua River north 76°26′00″ West 108.67 feet to a point; thence leaving said center of the South Umpqua River and running South 4°50′21″ West 621.98 feet to a ⅝ inch iron rod; thence North 89°28′50″ West 513.13 feet to a ⅝ inch iron rod located on the easterly right-of-way of County Road Number 35; thence along said easterly right-of-way South 0°42′17″ West 160.66 feet to the point of beginning. Containing 17.46 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

Dated: December 19, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–976 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–1030–2–24 1A]

Request for Emergency Clearance of an Information Collection Relating to Wild Horses and Burros

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces that we have requested emergency approval from the Office of Management and Budget (OMB) by January 30, 1998, to collect information relating to certain wild horses and burros. The BLM needs this information to issue title to adopters of wild horses and burros since 1992 who have not yet received title to the animals. We do not anticipate that collecting this information will extend beyond the 180-day maximum permitted by statute.

DATES: Comments on the request for emergency clearance should be sent as soon as possible. Comments on the proposed collection must be received by January 30, 1998, to be assured of consideration.

ADDRESSES: Mail comments on the request for emergency clearance directly to the Office of Management and Budget, Interior Department Desk Officer (1004–NEW), Office of Information and Regulatory Affairs, Washington, D.C. 20503. Please send a copy of your comments to the Bureau of Land Management Information Clearance Officer (WO–630), 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carole Smith, (202) 452–0367, from whom a copy of the proposed emergency collection is available.

NATURE OF COMMENTS: We specifically request your comments on the proposed collection in relation to the following:

(1) Whether the collection of information is necessary for BLM's proper functioning, including whether or not the information will have practical utility;

(2) The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

(3) The quality, utility and clarity of the information to be collected; and

(4) How to minimize the burden of collecting the information on those who are to respond, including using the appropriate automated, electronic, mechanical, or other forms of information technology.

SUPPLEMENTARY INFORMATION: The Wild, Free-Roaming Horse and Burro Act of December 15, 1971, as amended, places these animals under BLM's management and protection. BLM must manage these animals so as to achieve and maintain a thriving, natural ecological balance on the public lands. Maintaining the balance requires removing excess animals from the range and offering healthy animals for adoption. These animals go to individuals who are qualified to provide humane care and proper treatment. If these individuals demonstrate proper treatment and care for 1 year, BLM may grant title to not more than four animals per year to these individuals.

The regulations at 43 CFR 4750.5 require BLM to issue titles after 1 year to adopters who have held the animals for a year and have complied with all applicable requirements. Since 1992, about 2,500 individuals have adopted about 4,000 horses but do not have title to them. Untitled animals are Federal property and subject to BLM's jurisdiction and oversight. This information collection would assist these adopters in getting title to the animals.

The collection would be conducted as follows: BLM would send registered letters to the approximately 2,500 adopters at their addresses of record during the first week of February 1998. Respondents would be asked to verify preprinted information about each horse or burro as accurate or to correct it and would give information about what happened to the horse or burro and where it is currently located. Those individuals who still have their horses would be asked to title them by submitting an application for title. The application requests information about the animal(s) and the adopter's name and address and also requires a certified statement from a veterinarian or other animal professional that the animal or animals were properly cared for and in good health. We expect a 30% to 35% response rate to this mailing. Individuals who did not respond but for whom letters were not returned by the Postal Service would receive a second letter, sent by regular mail.

The time for reading the letter and preprinted information, verifying and supplying data and getting a certification as to the health of the animal or animals is estimated at 1 hour, 15 minutes per response. This time includes 45 minutes for the adopter to fill in the required information and 30 minutes for the veterinarian or other applicable individual to search his or her records and certify that the animals were humanely treated and cared for.

The BLM needs this information in advance of the time frames required by a regular information collection in order to meet its data needs and to comply with a settlement in Fund for the Animals and Animal Protection League, Inc. v. Shea. The terms of the settlement agreement in this lawsuit require BLM to get OMB approval for two forms relating to maintenance and care and titling of wild horses and burros. The titling effort associated with this collection will assist in meeting the terms and intent of the settlement agreement.

Dated: January 9, 1998.

Carole Smith,

Bureau of Land Management Information Collection Officer.

[FR Doc. 98–1011 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–930–08–1310–00]

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of Adoption/Notice of Availability of Record of Decision.

SUMMARY: This notice is to advise the public that the Bureau of Land Management (BLM) plans to adopt the Final Environmental Impact Statement (FEIS) addressing oil and gas leasing for lands within Duchesne and Wasatch Counties, Utah, upon the Ashley and Uinta National Forests and of the availability of the BLM's Record of Decision (ROD).

DATES: The public has 30 days from the date of this notice to appeal this decision in accordance with the instructions provided in this Notice.

SUPPLEMENTARY INFORMATION: In accordance with section 102 of the National Environmental Policy Act of 1969 (NEPA), a Final Environmental Impact Statement (FEIS) addressing oil and gas leasing for lands within Duchesne and Wasatch Counties upon the Ashley and Uinta National Forests has been prepared by the U.S. Forest Service (USFS) and BLM. National and local agreements between the two agencies identified the USFS as the lead agency for preparing the analysis with BLM participating as a cooperating agency as described in 40 CFR 1501.6.

The FEIS addresses the potential impacts of leasing on lands within the Ashley and Uinta National Forests and identifies which areas are available for leasing and any stipulations that will be attached to leases. The two Forest Service Plans have been amended to be consistent with the decisions reached in the ROD. The Mineral Leasing Act on 1920, as amended, provides the Secretary of the Interior the authority to issue oil and gas leases on lands where the oil and gas rights are held by the Federal Government. This authority has been delegated to the BLM. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 requires BLM to obtain the consent of the Secretary of Agriculture before issuing oil and gas leases on National Forest System lands. Authority to consent has been delegated to Forest Supervisors.

In accordance with 40 CFR 1506.3(c). BLM is adopting the FEIS for the purpose of issuing oil and gas leases within Duchesne and Wasatch Counties of the Ashley and Uinta National Forests. BLM actively participated in the preparation of the Draft and Final EIS's and independently reviewed each document. Department of the Interior, as well as public comments and concerns, have been satisfactorily addressed in the FEIS. The FEIS complies with NEPA and meets the requirements of the regulations for implementing the Federal Land Policy and Management Act of 1976 (43 CFR part 1600). BLM's preferred alternative is Alternative 3 as described in the FEIS (the USFS preferred alternative).

Copies of the FEIS are available from the Ashley National Forest, 355 North Vernal Avenue, Vernal, Utah, 84078, and Uinta National Forest, 100 West 88 North, Provo, Utah, 84601. Public reading copies are available at the following BLM locations: Utah State Office, 324 South State Street, Salt Lake City, Utah 84111, and Vernal District Office, 170 South 500 East, Vernal, Utah, 84078.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations in 43 CFR part 4. The Appellant has the burden of showing the decision appealed from is in error. If you wish to file a petition for a stay of the effectiveness of this decision during the time your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

FOR FURTHER INFORMATION CONTACT: Jim Fouts, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah, 84145–0155, phone number 801–539–4044 or Jerry Kenczka, Bureau of Land Management, Vernal District Office, 170 South 500 East, Vernal, Utah, 84078, phone number 435–781–4494.

Dated: January 8, 1998.

G. William Lamb,

State Director.

[FR Doc. 98–1014 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–08–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on February 20, 1998 at the Bureau of Land Management, New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico.

The agenda for the RAC meeting will include a video conference in the morning with the Secretary of the Interior and the Director of the Bureau of Land Management on Standards for Rangeland Health and Guidelines for Livestock Grazing and RAC success stories. (Other RACs in other States will also be included in the video conference). Additional agenda item in the afternoon include a briefing on (1) Implementation of the Standards for Rangeland Health and Guidelines for Livestock Grazing, (2) the Southwest Strategy and (3) the Automated Lands Minerals Records System (ALMRS).

The meeting will begin on February 20, 1998 at 8:30 a.m. The meeting is open to the public. The time for the public to address the RAC is on the Friday, February 20, 1998, from 3:00 p.m. to 4:00 p.m. The RAC may reduce or extend the end time of 4:00 p.m. depending on the number of people wishing to address the RAC. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items. The meeting on February 20, 1998, will be from 8:30 a.m. to 4:00 p.m. The end time of 4:00 p.m. for the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT:

Bob Armstrong, New Mexico State Office, Planning and Policy Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: January 9, 1998

Richard A. Whitley,

Deputy State Director.

[FR Doc. 98–1015 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–100–08–1820–00]

Use of Science for Improving Management of Public Lands and Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of public meeting.

SUMMARY: The Bureau of Land Management (BLM) will conduct a public meeting on the use of science for improving the management of the Nation's public lands and resources. The public meeting will focus on science in support of rangeland ecosystem management. The purposes of the public meeting are to discuss BLM's current use of available scientific knowledge and information and to obtain public views on current and future research needs and on desirable science initiatives. The public meeting is part of an ongoing effort to base decisions concerning the conservation and use of our public lands and resources on the best available science.

DATES: BLM will hold the public meeting on January 26, 1998, from 9:00 a.m. to 3:00 p.m. local time.

Submit written comments no later than close of business January 30, 1998.

ADDRESSES: BLM will hold the public meeting in Room 7000–B of the Department of the Interior Building, 1849 C Street, NW, Washington, DC.

Send written comments to Bureau of Land Management, WO–100, 1849 C Street, NW, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Bruce Van Haveren, (303) 236–0161, or John Haugh, (202) 452–5071. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

In an effort to ensure that BLM bases its resource management decisions on the best available science, BLM is conducting a public meeting on the use of science for improving the management of America's public lands and resources. BLM believes that a public meeting will facilitate the interactive exchange of ideas among the attending interested parties and BLM. The public meeting is not intended to seek or obtain a consensus on any particular issue. BLM expects the parties to include representatives of Federal, State, and local government agencies; universities; private research entities; and interested individuals.

The specific purposes of the public meeting are to—

- Discuss BLM's current use of available scientific knowledge and information, that is, what information is BLM currently applying and how does it enter into decision-making processes;
- Discuss current and future research needs, including whether ongoing research activities should be adjusted to meet changing needs and how to anticipate future research needs; and
- Discuss the need for additional science initiatives.

The public meeting will be conducted as follows: A BLM representative will give a 15-minute summary that describes current and planned research activities. After the summary, the BLM representative will lead an interactive discussion. If time remains, participants will have an opportunity to make closing remarks. BLM will make a transcript of the public meeting and will make the transcript available to interested parties who contact one of the individuals listed under **FOR FURTHER INFORMATION CONTACT**.

II. Public Comment Procedures

Participation in the public meeting is not a prerequisite for submittal of written comments. BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. BLM appreciates any and all comments, but those most useful and likely to influence decisions on BLM's use of science are those that are either supported by quantitative information or studies or those that include citations to and analyses of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be released in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address: Commenters may transmit comments electronically via the Internet to: bvanhave@blm.gov. Please submit comments as an ASCII file and avoid the use of special characters or encryption. Please include the identifier ''Science'' in the subject of your message and your name and address in the body of your message.

Dated: January 9, 1998.

Tom Fry,

Acting Director, Bureau of Land Management.

[FR Doc. 98–1034 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–010–5700–10; IDI–31768]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification in Boise County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification for recreation and public purposes lease with option for conveyance of public land in Boise County.

SUMMARY: The following public lands adjacent to the community of Idaho City, Boise County, Idaho have been examined and found suitable for lease with an option for sale upon proper development as a public park under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*):

Boise Meridian, Idaho

T. 6 N., R. 5 E., section 26; Lots 10 and 14, part of Lot 13, and NE¼SE¼.

Containing 56.93 acres more or less.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. Any adverse comments will be

reviewed by the District Manager. In the absence of any adverse comments, the classification will become effective and the land leased to the City of Idaho City for a public park.

EFFECTIVE DATES: The segregation is effective January 15, 1998. The classification will be effective March 16, 1998.

DATES: Comments must be submitted on or before March 2, 1998.

ADDRESSES: Comments concerning the classification, lease or conveyance should be sent to: Area Manager, Cascade Resource Area, 3948 Development Ave., Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT: Effie Schultsmeier, Cascade Area Realty Specialist, (208) 384–3357.

SUPPLEMENTARY INFORMATION: This action is in response to an application by the City of Idaho City for a public park. The lands are not needed for Federal purposes and are needed by the City for a public park. Lease of the lands will not be authorized until after the classification becomes effective. Lease of the lands for recreational or public purpose use would be in the public interest, and will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein. Lease of the lands will not be authorized until after the classification becomes effective.

Steven W. Moore,

Acting Cascade Area Manager.

[FR Doc. 98–1012 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Draft General Management Plan/ Environmental Impact Statement for Oregon Caves National Monument, Oregon

AGENCY: National Park Service.

ACTION: Notice of availability of draft Environmental Impact Statement.

SUMMARY: This notice announces the availability of a draft general management plan (GMP) and environmental impact statement (EIS) for Oregon Caves National Monument, Oregon. This notice also announces public open houses for the purpose of receiving comments on the draft document. All comments received will become part of the public record and copies of comments, including names, addresses and telephone numbers provided by respondents, may be released for public inspection.

DATES: Comments on the draft GMP/EIS should be received no later than March 13, 1998. Public meetings will be held as follows:

February 9, 1998, from 2:00 to 4:00 p.m. and from 7:00 to 9:00 p.m. at the Illinois Valley Senior Center, 520 East River Street, Cave Junction, OR; and

February 10, 1998, from 2:00 to 4:00 p.m. and from 7:00 to 9:00 p.m. at the Grants Pass City Council Chambers, 101 NW ''A'' Street, Grants Pass, OR.

ADDRESSES: Comments on the draft GMP/EIS should be sent to the Superintendent, Oregon Caves National Monument, 19000 Caves Highway, Cave Junction, OR 97523. Public reading copies of the draft GMP/EIS will be available for review at the following locations, as well as other local libraries around the Oregon Caves National Monument area: Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, DC 20240, telephone: (202) 208–6843; Columbia Cascades Support Office, National Park Service, Room 650, 909 First Avenue, Seattle, WA 98104–1060, telephone: (206) 220–4154; Oregon Caves National Monument, 19000 Caves Highway, Cave Junction, OR 97523, telephone: (541) 592–2100; Office of Public Affairs, National Park Service, Pacific West Region, 600 Harrison Street, Suite 600, San Francisco, CA 94107–1372, telephone: (415) 427–1300; Technical Information Center, National Park Service, Denver Service Center, 12795 W. Alameda Parkway, Denver, CO 80225–0287, telephone: (303) 969–2534; Portland Public Library, 801 SW. 10th Avenue, Portland, OR 97205 , telephone: (503) 248–5123.

SUPPLEMENTARY INFORMATION: This draft GMP/EIS describes and analyzes the environmental consequences of four alternative strategies for guiding future management of the national monument. The major subject areas are natural and cultural resources, visitor services, and park management and operations. Alternative A is the ''no action'' alternative, which means a continuation of the existing policies and programs. Alternative B is the ''minimum requirements'' alternative and describes those minimum actions that are required for the safe and effective operation of the park. Included is a 3,310-acre protected area within adjacent National Forest lands to protect cave ecology and the public water supply. Alternative C (the proposed action and preferred alternative) emphasizes enhanced protection of the monument resources and visitor experiences through park-led cave tours, an on-site visitor center in an adaptively reused historic building, establishment of a caves reservation system, and enhancement of non-motorized trails in a protected forest setting. It also provides for increased protection of the cave hydrology, surface forest environment, and public water supply through a 3,310-acre addition to the monument from adjacent National Forest lands. Alternative D emphasizes increased visitor services and recreation opportunities combined with increased watershed protection. A 2,373-acre addition and a 937-acre protected area are also part of the alternative. The draft EIS evaluates the potential environmental impacts associated with the strategies comprising the four alternatives. The official responsible for a decision on the proposed action is the Regional Director, Pacific West Region, National Park Service.

Dated: January 8, 1998.

Charlotte A. Munson,

Acting Superintendent, Columbia Cascades Support Office.

[FR Doc. 98–1018 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Glen Echo Park Management Plan/ Environmental Assessment

AGENCY: National Park Service, Interior.

ACTION: Notice of scoping meeting/open house for the Glen Echo Park Management Plan/Environmental Assessment.

SUMMARY: This notice announces an upcoming scoping meeting/open house for the Glen Echo Park Management Plan and the intent to publish an environmental assessment in association with the management plan.

DATE AND TIME: Tuesday, February 3, 1998, from 7:00 to 9:00 p.m.

ADDRESSES: Clara Barton Community Center, 7425 MacArthur Boulevard, Cabin John, Maryland.

The purpose of the scoping meeting/open house is to describe the management planning effort for Glen Echo Park and to solicit concerns about future management of the park. Through a workshop format the meeting will provide an overview of the planning effort and an opportunity for the public to discuss their concerns with park staff and provide verbal and written comments.

We encourage all who have an interest in the park's future to attend or to contact the Park Superintendent by letter or telephone, at George Washington Memorial Parkway, c/o Turkey Run Park, McLean, Virginia 22101, telephone number: 703–285–2600.

Dated: January 8, 1998.

Audrey F. Calhoun,

Superintendent, George Washington Memorial Parkway.

[FR Doc. 98–1017 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF INTERIOR

Keweenaw National Historical Park Advisory Commission Meeting

AGENCY: National Park Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Keweenaw National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATES: February 24, 1998; 8:30 a.m. until 4:30 p.m.

ADDRESSES: Keweenaw National Historical Park Headquarters, 100 Red Jacket Road (2nd floor), Calumet, Michigan 49913–0471.

The Chairman's welcome; minutes of the previous meeting; update on the general management plan; update on park activities; old business; new business; next meeting date; adjournment. This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Superintendent, Keweenaw National Historical Park, Frank C. Fiala, P.O. Box 471, Calumet, Michigan 49913–0471, 906–337–3168.

SUPPLEMENTARY INFORMATION: The Keweenaw National Historical Park was established by Public Law 102–543 on October 27, 1992.

Dated: January 7, 1998.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 98–1019 Filed 1–14–98; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–389]

Implications for U.S. Trade and Competitiveness of a Broad-Based Consumption Tax

AGENCY: United States International Trade Commission

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: January 8, 1998.

SUMMARY: Following receipt on December 15, 1997, of a request from the House Committee on Ways and Means (Committee), the Commission instituted investigation No. 332–389, Implications for U.S. Trade and Competitiveness of a Broad-based Consumption Tax, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION: Information on economic aspects of the investigation may be obtained from Hugh Arce, Office of Economics (202–205–3234) or William Donnelly, Office of Economics (202–205–3223), and on legal aspects, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Background

The Committee's letter noted that there are several proposals to significantly reform the current U.S. income tax system, including many that can be characterized as consumption taxes. Examples noted in the letter include a flat tax, a national retail sales tax, and a value-added tax. It noted that a number of studies have examined the effects of consumption-based taxes on international trade and found a wide range of effects on investment, imports, and exports, depending upon how the consumption tax is structured.

As requested by the Committee, the Commission in its report on the investigation will provide an analysis of the implications for U.S. trade and competitiveness of replacing the current income tax system with a broad-based consumption tax. The Commission will also analyze various consumption tax proposals such as those noted above. In addition, the Commission will provide a review of current economic analyses on this topic, and a discussion of the key technical issues that can significantly affect the relationship between tax policy and international trade.

The Commission will provide its report by June 15, 1998.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission hearing room, 500 E Street, SW, Washington, DC 20436, beginning at 9:30 a.m. on March 5, 1998. All persons have the right to appear by counsel or in person to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436 no later than COB, February 26, 1998. Prehearing statements should be filed not later than COB February 26, 1998. Any posthearing submissions must be filed not later than COB March 19, 1998.

In the event that, as of COB March 4, 1998, no witnesses have filed a request to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after March 4, 1998, to determine whether the hearing will be held.

Written Submissions

Interested persons are invited to submit written statements (one original and 14 copies) concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. (Generally, submission of separate confidential and public versions of the submission would be appropriate.) All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than March 19, 1998. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission

should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: January 9, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–966 Filed 1–14–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 753–TA–35]

Steel Wire Rope From Thailand

AGENCY: United States International Trade Commission.

ACTION: Initiation and scheduling of a countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the initiation of countervailing duty investigation No. 753–TA–35 under section 753(a) of the Tariff Act of 1930 (19 U.S.C. § 1675b(a)) (the Act) to determine whether an industry in the United States is likely to be materially injured by reason of imports from Thailand of steel wire rope, provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States, if the countervailing duty order on such merchandise is revoked.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207 (19 CFR part 207).

EFFECTIVE DATE: January 5, 1998.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Offce of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 753(a) of the Act provides that, in the case of a countervailing duty order issued under section 303 of the Act with respect to which the requirement of an affrmative determination of material injury under section 303(a)(2) was not applicable at the time the order was issued, interested parties may request that the Commission initiate an investigation to determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked. Such a request concerning the countervailing duty order on steel wire rope from Thailand was filed on June 30, 1995, by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers of Washington, DC.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. Copies of draft questionnaires will be sent for comment to parties who filed an entry of appearance by February 6, 1998.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than 21 days prior to the hearing date specified in this notice. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on May 6, 1998, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 21, 1998, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 12, 1998. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 14, 1998, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 13, 1998. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 29, 1998; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 29, 1998. On June 24, 1998, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 26, 1998, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.46 of the Commission's rules.

By order of the Commission.

Issued: January 8, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–965 Filed 1–14–98; 8:45am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Civil Rights Division

Agency Information Collection Activities Proposed Collection; Comment Request

ACTION: Request OMB Emergency Approval of a Reinstatement, without change, of a previously approved collection for which approval has expired. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

The Department of Justice, Civil Rights Division, has submitted the following information collection request utilizing emergency review procedures, to OMB for review and clearance in accordance with sections 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The Civil Rights Division has determined that it cannot reasonably comply with the normal clearance procedures under this Part of the Act because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information.

Therefore, OMB emergency approval has been requested by January 27, 1998. If granted the emergency approval is only valid for 180 days. All comments and questions pertaining to this pending request for emergency approval *must* be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer (Ms. Victoria Wassmer), Washington, DC, 20503. Comments regarding the emergency submission of this information collection may also be submitted to OMB via facsimile at 202–395–7285.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to: Department of Justice, Civil Rights Division, Voting Section, Attention: David H. Hunter, (202) 307–2898, P.O. Box 66128, Washington, DC 20035. Comments are encouraged and will be accepted until March 16, 1998. Your comments should address one or more of the following four points:

1. evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used;

3. enhance the quality, utility, and clarity of the information to be collected; and

4. evaluate whether the data collection instrument will minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection.

1. Type of Information Collection. Reinstatement, without change, of a previously approved collection for which approval has expired.

2. Title of the Form/Collection: Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

3. Agency form number, if any, and the applicable component of the department of Justice sponsoring the collection: Form Number: None. Civil Rights Division, United States Department of Justice.

4. Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, Local, and Tribal Government. Other: None. Jurisdictions specifically covered under the Voting Rights Act are required to obtain preclearance from the Attorney General before instituting changes affecting voting. They must convince the Attorney General that voting changes are not racially discriminatory. The procedures facilitate the provision of information that will enable the Attorney General to make the required determination.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 10,103 respondents with the average response at 10.021 hours.

6. An estimate of the total public burden (in hours) associated with the collection: 47,365 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Suite 850, Washington Center Building, 1001 G Street, NW, Washington, DC, 20530.

Dated: January 12, 1998.

Robert B. Briggs,

Clearance Officer, United States Department of Justice.

[FR Doc. 98–1013 Filed 1–14–98; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Justice Management Division; Agency Information Collection Activities: Existing Collection: Common Request

ACTION: Notice of Information Collection Under Review: Extension of Previously Approved Collection, Department of Justice Procurement Blanket Clearance.

Office of Management and Budget approval is being sought for the information collection listed below. This collection was previously published in the **Federal Register** on October 31, 1997, allowing for a 60-day public comment period. No comments were received by the management and Planning Staff.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 17, 1998. This process is conducted in accordance with a 5 CFR 3120.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs: Attention: Ms. Victoria Wassmer, 202–395–5871, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile on 202–395–7285.

Written comments and suggestions from the public and affected agencies concerning this collection of

information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments may also be submitted to the Department of Justice, Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile on 202–514–1590.

Overview of This Collection

(1) *Type of Information Collection:* Extension of Current Collection.

(2) *The title of this form/collection:* Department of Justice Procurement Blanket Clearance.

(3) *The agency form number, if any, and applicable component of the Department sponsoring the collection:* Procurement Solicitation Documents, Justice Management Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Commercial organizations and individuals who voluntarily submit offers and bids to compete for contract awards to provide supplies and services required by the Government. All work statements and pricing data are required to evaluate the contractors bid or proposal.

(5) *An estimate of the total number of respondents and the amount of time for an average respondent to respond:* 7,462 respondents, 20 hours average response time.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 149,240 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: January 9, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–1000 Filed 1–4–98; 8:45 am]

BILLING CODE 4410–26–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

National Institute of Justice

[OJP (NIJ)–1147]

National Institute of Justice Solicitation for Building Safer Public Housing Communities Through Locally Initiated Research Partnerships

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice solicitation ''Building Safer Public Housing Communities Through Locally Initiated Research Partnerships, 1998.''

DATES: Due date for receipt of proposals is close of business March 31, 1998.

ADDRESSES: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS at 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center at 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice (NIJ) is calling for proposals to implement Locally Initiated Research Projects (LIRP) in Public and Indian Housing Authorities. These projects will assist housing authorities in the evaluation of efforts to control and prevent drug and drug-related crime problems such as those supported by the Public Housing Drug Elimination Program (PHDEP). Eight to 12 awards for a total expenditure of up to $975,000 will be awarded to proposals that include the following areas of research:

Each LIRP must have as it's purpose one of two organizing principles: to evaluate the effectiveness of an on-going program; or to identify problems within a Housing Authority (HA) development, implement a program to solve those problems, and evaluate the solutions effectiveness.

Each LIRP must include, as a minimum, officials and residents of an HA, and a researcher. The roles of each of these partners must be equivalent in terms of decisionmaking. Each proposal must also outline how these partnerships will be continued once Federal funding has concluded.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Building Safer Public Housing Communities Through Locally Initiated Research Partnerships, 1998'' (refer to document No. SL000243). For World Wide Web access, connect either to either NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–1043 Filed 1–14–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

National Institute of Justice

[OJP(NIJ)–1148]

National Institute of Justice Solicitation for Evaluation of Victims of Crime Act State Compensation and Assistance Programs, 1998

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of Solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice ''Evaluation of Victims of Crime Act State Compensation and Assistance Programs, 1998.''

DATES: Due date for receipt of proposals is close of business March 16, 1998.

ADDRESSES: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice is calling for proposals for an evaluation of Victims of Crime Act (VOCA) funded compensation and assistance programs. These programs have an overall goal of providing a seamless web of services and support to reduce the financial, physical, psychological, and emotional costs of victimization. One grant of $750,000 for a 30-month period, will be awarded to evaluate the effectiveness of these programs in meeting their goals and victim needs.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Evaluation of Victims of Crime Act State Compensation and Assistance Programs'' (refer to document no. SL000242). For World Wide Web access, connect to either NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–1042 Filed 1–14–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of The Secretary

Privacy Act of 1974; Proposed New Routine Use To an Existing System of Records

AGENCY: Office of the Secretary, Labor.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S. C. 552a(e)(11)), the Department of Labor is issuing notice of our intent to amend the system of records entitled, DOL/OFO–1, Attendance, Leave, and Payroll File, to include a new routine use. The disclosure is required by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, Pub.L. 104–193). We invite public comment on this publication.

DATES: Persons wishing to comment on the proposed routine use must do so by February 17, 1998.

Effective date: The proposed routine use will become effective as proposed without further notice on February 17, 1998.

ADDRESSES: Interested individuals may comment on this publication by writing to Robert A. Shapiro, Associate Solicitor, Division of Legislation and Legal Counsel, 200 Constitution Avenue, NW, Room N–2428, Washington, DC 20210. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Miriam McD. Miller, Co-Counsel for Administrative Law, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW, Room N–2428, Washington, DC 20210, telephone (202) 219–8188, ext. 135.

SUPPLEMENTARY INFORMATION: Pursuant to section three of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), hereinafter referred to as the Act, the Department hereby publishes notice of a proposed new routine use for the Department's existing payroll system of records. This document supplements this Department's last publication in full of all of its Privacy Act systems of records. On September 23, 1993, in Volume 58 at Page 49548 of the **Federal Register**, we published a notice containing 138 systems of records which were maintained under the Act. Subsequent publications of new systems were made on April 15, 1994 (59 FR 18156)(two new systems); on May 10, 1995 (60 FR 24897)(one new system); and on June 15, 1995 (60 FR 31495)(one new system); April 7, 1997 (62 FR 16610)(one new system); and on October 14, 1997 (62 FR 53343) (one new system).

The Department hereby proposes to amend an existing system of records, DOL/OCFO–1, Attendance, Leave and Payroll File, so that a new Routine Use can be established. Pursuant to Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, this Department will disclose data from this system to the Office of Child Support Enforcement, Admininstration for Children and Families, U.S. Department of Health and Human Services for use in the National Database of New Hires, part of the Federal Parent Locator System (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074. A description of the Federal Parent Locator Service may be found at 62 FR 51663 (October 2, 1997).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and/or their employers for purposes of establishing paternity and securing support. On October 1, 1997, the FPLS was expanded to include the National Directory of New Hires, a database containing information on employees recently hired, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits. On October 1, 1998, the FPLS will be expanded further to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified of the participant's current employer. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

When individuals are hired by the Department of Labor, we may disclose to the FPLS their names, social security numbers, home addresses, dates of birth, dates of hire, and information identifying us as the employer. We also may disclose to FPLS names, social security numbers, and quarterly earnings of each Department of Labor employee, within one month of the end of the quarterly reporting period.

Information submitted by the Department of Labor to the FPLS will be disclosed by the Office of Child Support Enforcement to the Social Security Administration for verification to ensure that the social security number provided is correct. The data disclosed by the Department of Labor to the FPLS will also be disclosed by the Office of Child Support Enforcement to the Secretary of the Treasury for use in verifying claims for the advance payment of the earned income tax credit or to verify a claim of employment on a tax return.

We are also making various minor grammatical corrections to this system. The names of agencies within the category for System Location are being updated. In the Records Category, two commas are being added, and two grammatical corrections are being made. Finally, two grammatical corrections are being made in the category for Purpose.

Universal Routine Uses

In its September 23, 1993 publication, the Department gave notice of eleven paragraphs containing routine uses which apply to all of its systems of records, except for DOL/OASAM–5 and DOL/OASAM–7. These eleven

paragraphs were presented in the General Prefatory Statement for that document, and it appeared at Pages 49554–49555 of Volume 58 of the **Federal Register**. Those eleven paragraphs were republished in an April 15, 1994 document in order to correct grammatical mistakes in the September 23, 1993 version. In the May 10, 1995, June 15, 1995 and April 7, 1997 publication, the General Prefatory Statement was republished as a convenience to the reader of the document. In an October 14, 1997 publication, the General Prefatory Statement was again republished in order to make a syntactical change to paragraph 10. We are again republishing the General Prefatory Statement as a convenience to the reader.

The public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on the proposed new routine use. A report on the proposed amendment to DOL/OCFO–1 has been provided to OMB and to the Congress as required by OMB Circular A–130, Revised, and 5 U.S.C. 552a(r).

General Prefatory Statement

The following routine uses apply to and are incorporated by reference into each system of records published below unless the text of a particular notice of a system of records indicates otherwise. These routine uses *do not* apply to DOL/OASAM–5, Rehabilitation and Counseling File, nor to DOL/OASAM–7, Employee Medical Records.

1. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

2. It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

4. A record from this system of records may be disclosed to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. Records from this system of records may be disclosed to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. Disclosure may be made to agency contractors, or their employees, consultants, grantees, or their employees, or volunteers who have been engaged to assist the agency in the performance of a contract, service, grant, cooperative agreement or other activity related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a; see also 5 U.S.C. 552a(m).

7. The name and current address of an individual may be disclosed from any system of records to the parent locator service of the Department of HHS or to other authorized persons defined by Pub. L. 93–647 for the purpose of locating a parent who is not paying required child support.

8. Disclosure may be made to any source from which information is requested in the course of a law enforcement or grievance investigation, or in the course of an investigation concerning retention of an employee or other personnel action, the retention of a security clearance, the letting of a contract, the retention of a grant, or the retention of any other benefit, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

9. Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the granting or retention of a security clearance, the letting of a contract, a suspension or debarment determination or the issuance or retention of a license, grant, or other benefit.

10. A record from any system of records set forth below may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation and the legislative coordination and clearance process.

11. Disclosure may be made to a debt collection agency that the United States has contracted with for collection services to recover debts owed to the United States.

Publication of a Proposed Amendment

Accordingly, DOL/OCFO–1, Attendance, Leave, and Payroll File, a system notice recently amended at 62 FR 16614 (April 7, 1997), is further amended by amending the category for Routine Uses, by adding a new paragraph of routine use at the end of the existing text, to be designated as paragraph F., to read as set forth below. For the convenience of the reader, the newly revised system is being published in full as follows:

DOL/OCFO–1

SYSTEM NAME:

Attendance, Leave, and Payroll File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A. Offices in Washington, D.C.:

1. Office of the Secretary of Labor, including:

a. Office of the Assistant Secretary for Administration and Management, (OASAM);
b. Office of the Solicitor of Labor;
c. Office of Public Affairs;
d. Bureau of International Labor Affairs;
e. Employees' Compensation Appeals Board;
f. Wage Appeals Board;
g. Benefits Review Board;
h. Office of Administrative Law Judges;
i. Pension Benefit Guaranty Corporation;
j. President's Committee on the Employment of People with Disabilities;
k. National Occupational Information Coordinating Committee;
l. National Commission for Employment Policy;
m. Veteran's Employment and Training Service.
2. Bureau of Labor Statistics;
3. Employment Standards Administration, including the Office of Labor-Management Standards and the Office of Labor-Management Programs;
4. Employment and Training Administration;
5. Occupational Safety and Health Administration;
6. Mine Safety and Health Administration;
7. Office of the Inspector General;
8. Pension and Welfare Benefits Administration; and
9. The Chief Financial Officer for the Department.
B. Regional and Area Offices of the above.
C. Timekeepers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Labor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number and employee number, grade, step, and salary, organization (code), retirement or FICA data as applicable. Federal, State, and local tax deductions, as appropriate. IRS tax lien data, savings bond and charity deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data, military leave data, pay differentials, union dues deductions, allotments by type and amount, Thrift Savings Plan contributions, financial institution code and employee account number, leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement, disability, sick, transferred, and without pay), time and attendance records, including flexitime log sheets indicating number of regular, overtime, holiday, Sunday, and other hours worked, pay period number and ending date, cost of living allowances, co-owner and/or beneficiary of bonds, marital status, number of dependents, mailing address, ''Notification of Personnel Action'', and claims by the employee for overtime, for back wages and for waivers. Consumer credit reports of individuals indebted to the United States, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements and other information such as the nature, amount and history of a debt owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66(A).

PURPOSE(S):

In compliance with principles and standards prescribed by the Comptroller General, this system manages the Department of Labor's compensation and benefits processing, accounting, and reporting. The system provides control procedures and systems to assure the complete and timely processing of input documents and output reports necessary to update and maintain the Department's Interactive Payroll System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A. Transmittal of data to the U.S. Treasury to effect issuance of paychecks or electronic fund transfers (EFT) to employees and distribution of pay according to employee directions for savings bonds, allotments to financial institutions, and other authorized purposes. Transmittal of Thrift Savings Plan data to the Thrift Savings Board to effect contributions to the Thrift Savings Plan. Tax withholding data sent to the Internal Revenue Service and appropriate State and local taxing authorities, FICA deductions to the Social Security Administration, dues deductions to labor unions, withholdings for health insurance to insurance carriers and the Office of Personnel Management, charity deductions to agents of charitable institutions, annual W–2 statements to taxing authorities and the individual, and transmittal of computer tape data to appropriate State and local governments for their benefits matching projects. Transmittal of employee's name, social security number, salary history to state unemployment insurance agencies in order to facilitate the processing of state unemployment insurance claims for DOL employees.

B. Pursuant to section 13 of the Debt Collection Act of 1982, the name, Social Security Number, address(es), telephone number(s), and nature, amount and history of the debt of a current or former employee may be disclosed to private collection agencies for the purpose of collecting or compromising a debt existing in this system.

C. Department of Justice and General Accounting Office: Information may be forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (4 CFR Chapter II). When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

D. Other Federal Agencies:

(1) Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

(2) A record from this system may be disclosed to a Federal Agency in response to its request in connection with the hiring/retention of an employee, the letting of a contract, or the issuance of a grant, license, or other benefit by the requesting agency, to the extent that the information is necessary and relevant to the requesting agency's decision on the matter.

E. Internal Revenue Service:

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

F. The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for

Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104–193).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

The amount, status, and history of overdue debts, the name and address, taxpayer identification number (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine-readable files.

RETRIEVABILITY:

By name and SSN.

SAFEGUARDS:

Personnel screening and locked storage equipment.

RETENTION AND DISPOSAL:

Retained until after GAO audit. Records are then disposed of, or retired, according to specified agency/GRS records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in attached and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As in system manager and address.

RECORD ACCESS PROCEDURES:

As in system manager and address.

CONTESTING RECORD PROCEDURES:

As in system manager and address.

RECORD SOURCE CATEGORIES:

Employees, supervisors, timekeepers, official personnel records, the IRS, consumer credit reports, personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other DOL systems of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Signed at Washington, DC, this 9th day of January 1998.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–1033 Filed 1–14–98; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Welfare-to-Work Solicitation for Grant Applications Comment Request

January 9, 1998.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuting collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the Solicitation for Grant Applications (SGA) for the Welfare-to-Work (WtW) Competitive Grants. This SGA was published in the **Federal Register** on December 30, 1997 Under OMB approval number 1205–0387 (Please note that, due to a typographical error, the OMB approval number appeared in the SGA as ''1205–1387''. This clearance number is incorrect). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed in the addressee section of this notice. Comments will be used to influence the development of future WtW solicitations for grant applications. The SGA published in the **Federal Register** on December 30, 1997 will not be modified in any way.

DATES: Written comments on the WtW SGA published in the **Federal Register** on December 30, 1997 must be submitted to the office listed in the addressee section below on or before March 16, 1998. The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: U.S. Department of Labor, Employment and Training Administration, ATTENTION: Cheryl Turner, 200 Constitution Avenue, N.W., Room S–5513, Washington, D.C. 20210, 202–219–0181 extension 139 (this is not a toll free number) or by fax at 202–219–0376.

SUPPLEMENTARY INFORMATION:

I. Background

The Balanced Budget Act of 1997, signed by the President on August 5, 1997, authorized the Department of Labor to provide Welfare-to-Work (WtW) grants to States and local communities to provide transitional employment assistance to move Temporary Assistance for Needy Families (TANF) recipients with significant employment barriers into unsubsidized jobs providing long-term employment opportunities. Under the WtW grants program, 25% of funds not allocated by the formula grants (to the States) will be provided through competitive grants to local governments, PICs, and private entities. In order to receive competitive grant funds, the statute provides that the public or private entity must submit an application in conjunction with the applicable PIC or political subdivision.

II. Current Actions

Need for continuing an existing collection of information.

Type of Review: Extension (without change)

Agency: Employment and Training Administration

Title: Welfare-to-Work Competitive Grants; Solicitation for Grant Application

OMB Number: 1205–0387

Affected Public: Public and private entities

Total Respondents: 600

Frequency: Annually

Total Responses: 600

Average time per response: 20

Estimated Total Burden Hours: 12,000

Total Burden Cost (capital/startup): $480,000

Total Burden Cost (operating/maintaining): Comments submitted in response to this request will be summarized and considered for use in future SGAs; they will also become a matter of public record.

Dated: January 9, 1998.

Dennis Lieberman,

Acting Director, Welfare to Work Grants Implementation Team.

[FR Doc. 98–1031 Filed 1–14–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration; National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on February 12, 1998, in Room N3437 A–C of the Department of Labor Building located at 200 Constitution Avenue, NW., Washington, DC. The meeting is open to the public and will begin at 9:00 a.m. lasting until approximately 4:30 p.m.

Agenda items will include: A brief overview of current activities in the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), a discussion of incentive and disciplinary programs in the workplace, updates on the CCP implementation and 11(c) task force, a report on the ergo stakeholder meetings, discussion of OSHA's multiple definitions of and criteria for safety and health programs as well as reports from NACOSH's workgroups.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Frank Frodyma at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Theresa Berry (phone: 202–219–8615, extension 106; FAX: 202–219–5986) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–219–7500). For additional information contact: Frank Frodyma, Acting Director of Policy, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210 (phone: 202–219–8021, extension 102; FAX: 202–219–4383; e-mail frank.frodyma@osha-no.osha.gov).

Signed at Washington, DC, this 9th day of January, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 98–1032 Filed 1–14–98; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following revisions to currently approved collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). These information collections are published to obtain comments from the public.

DATES: Comments will be accepted until March 16, 1998.

ADDRESSES: Interested parties are invited to submit written comments to Mr. James L. Baylen at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428; Fax No. 703–518–6433.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collections of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300 and NCUA 5300S

Type of Review: Revision to a currently approved collection.

Title: Semiannual and Quarterly Financial and Statistical Report.

Description: The financial and statistical information collected is essential to NCUA in carrying out its responsibility for supervising federal credit unions. The information also enables NCUA to monitor all federally insured credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund.

Respondents: All credit unions.

Estimated No. of Respondents/Recordkeepers: 11,500.

Estimated Burden Hours Per Response: 8.

Frequency of Response: Quarterly and semi-annually.

Estimated Total Annual Burden Hours: 204,800.

Estimated Total Annual Cost: 0.

OMB Number: 3133–0067.

Form Number: NCUA 5310.

Type of Review: Revision to a currently approved collection.

Title: Corporate Credit Union Monthly Call Report.

Description: NCUA utilizes the information to monitor financial conditions in corporate credit unions, and to allocate supervision and examination resources. The respondents are corporate credit unions, or ''banker's banks'' for natural person credit unions.

Respondents: Corporate credit unions.

Estimated No. of Respondents/Recordkeepers: 40.

Estimated Burden Hours Per Response: 1.44.

Frequency of Response: Monthly.

Estimated Total Annual Burden Hours: 960.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on January 8, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–967 Filed 1–14–98; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of application period.

SUMMARY: The National Credit Union Administration (NCUA) will accept applications for participation in the Community Development Revolving Loan Program for Credit Unions throughout calendar year 1998, subject to availability of funds. Application procedures for qualified low-income credit unions are set forth in part 705, NCUA Rules and Regulations, 12 CFR Part 705.

DATES: Applications may be submitted throughout calendar year 1998.

ADDRESSES: Applications for participation may be obtained from and should be submitted to: NCUA, Office of Community Development Credit Unions, 1775 Duke Street, Alexandria, VA 22314–3428.

FOR FURTHER INFORMATION CONTACT: The Office of Community Development Credit Unions at the above address or telephone (703) 518–6610.

SUPPLEMENTARY INFORMATION: Part 705 of the NCUA Rules and Regulations implements the Community Development Revolving Loan Program for Credit Unions. The purpose of the Program is to assist officially designated ''low-income'' credit unions in providing basic financial services to residents in their communities which result in increased income, ownership and employment. The Program makes available low interest loans and deposits in amounts up to $300,000 to qualified participating ''low-income'' credit unions. Program participation is limited to existing credit unions with an official ''low-income'' designation.

This notice is published pursuant to section 705.9 of the NCUA Rules and Regulations, 12 CFR 705.9, which states that NCUA will provide notice in the **Federal Register** when funds in the program are available.

By the National Credit Union Administration Board on January 8, 1998.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 98–968 Filed 1–14–98; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy or Joyce Jatko Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On November 29, 1997, the National Science Foundation published a notice in the **Federal Register** of a waste management permit application received. A permit was issued on December 24, 1997 to the following applicant: Red Whittaker, Permit #98WM–1.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 98–1055 Filed 1–14–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On December 2, 1997, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on January 7, 1998 to the following applicants: Howard E. Evans, Permit No. 98–020 and Rennie S. Holt, Permit No. 98–021.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 98–1056 Filed 1–14–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 366, ''Licensee Event Report''.

2. Current OMB approval number: 3150–0104.

3. How often the collection is required: On occasion.

4. Who is required or asked to report: Holders of operating licenses for commercial nuclear power plants.

5. The number of annual respondents: 109 holders of operating licenses for commercial nuclear power plants.

6. The number of hours needed annually to complete the requirement or request: Approximately 50 hours per response. The total industry burden is 80,000 hours.

7. Abstract: NRC collects reports of operational events at commercial nuclear power plants in order to incorporate lessons of that experience in the licensing process and to feed back the lessons of that experience to the nuclear industry.

Submit, by March 16, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://

www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 8th day of January, 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–1048 Filed 1–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR 72, issued to the Florida Power Corporation (FPC or the licensee), for operation of the Crystal River Nuclear Generating Unit 3 (CR3) located in Citrus County, Florida.

The licensee proposed a revision to the description of the starting logic for the Reactor Building (RB) Recirculation System Fan Coolers, as discussed in the CR3 Final Safety Analysis Report (FSAR), Chapters 5, 6, 7 and 9, and Improved Technical Specification (ITS) Bases Section 3.6. The change to the starting logic would ensure that only one RB Fan starts on an Engineered Safeguards (ES) Reactor Building Isolation and Cooling (RBIC) signal. A modification to the plant will install components that could increase the probability of occurrence of a malfunction of equipment important to safety previously evaluated in the FSAR. FPC has determined that proposed changes to associated electrical controls involve an Unreviewed Safety Question (USQ). Therefore, NRC review and approval are required.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee made its request on December 5, 1997, and as required by 10 CFR 50.91(a), and provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change to the starting logic for the RB Fans affects the ES equipment that responds to mitigate an accident. The RB Fans are not accident initiators and the change to the starting logic cannot initiate an accident. Therefore, the probability of occurrence of an evaluated accident is not increased.

The RB Fan start logic change selects an available RB Fan to run upon an RBIC actuation, but only allows the operation of one RB Fan to prevent overloading the SW [Nuclear Services Closed Cycle Cooling] System. The containment analysis for CR–3 assumes that one train of ES equipment is available for accident mitigation, specifically, one RB Fan and one RB Spray train for containment cooling. The combination of two RB Spray trains with no RB Fans is also evaluated and found to be acceptable. These available containment cooling equipment combinations represent the minimum that would be available for accident response both before and after the implementation of this change.

In addition to the same equipment being available to mitigate an accident, there is no change to the analyzed containment response. The time delay in the start of an RB Fan of up to several seconds due to the modification has been evaluated through containment analysis sensitivity studies. The results of these studies show that containment peak pressure and temperature, and long term temperature profiles, are not affected. The consequences of an accident are directly related to containment pressure and temperature conditions. Since containment conditions following an accident are not affected by this modification, there will be no change to the consequences of any analyzed accident.

2. Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The modification changes the RB Fan start logic in the event of an accident. The new start circuit ensures that one RB Fan is operating in response to an RBIC actuation, but prevents the operation of two fans. This modification prevents the thermal overloading of the SW System in order to preserve the operability of equipment cooled by the SW System. Several potential new failure modes were evaluated and determined not to create the possibility of a new or different kind of accident.

Additionally, the RB Fans are engineered safeguards equipment designed to mitigate an accident, and the SW System is an accident mitigation support system. These systems are not accident initiators. The ES electrical busses and the EDG [emergency diesel generator] are not affected by this change. All containment design conditions are met with this change.

Therefore, this change cannot create the possibility of an accident of a different kind than previously evaluated in the SAR.

3. Does not involve a significant reduction in the margin of safety.

Technical Specification 3.6.6 states that two RB Spray trains and two RB containment cooling trains must be operable. This specification ensures diversity and redundancy of the containment cooling system. Following the modification, all margins will be maintained. Two RB Fans will be operable and capable of starting on an RBIC signal. The modified circuitry maintains the RB Fan redundancy. The RB Sprays are not affected by this modification.

The margin of safety associated with the containment maximum pressure and temperature in response to a LOCA [loss-of-coolant accident] is not affected since any failure of this modification results in equipment combinations that have been analyzed and determined to be acceptable. Containment LOCA response sensitivity studies have verified that the small start delay, associated with the modified RB Fan start circuit, has no effect on the post-LOCA peak temperature and pressure in containment. Also, the failure of SW valves that results in the loss of the ability of the RB Fan Coolers to remove heat or the failure of either RB Fan to run, will not affect the containment peak temperature and pressure conditions since two trains of RB Spray are available.

The proposed modification allows only one RB Fan to operate post-accident. This ensures that the SW System is not overloaded and SW temperatures remain within design basis limits. Therefore, there is no reduction in the margin of safety for the SW System equipment cooling function after the implementation of this change.

The small additional electrical loads, and the out-of-sequence loading of an RB Fan associated with this change have been evaluated and determined to be within the load limits of the EDG and ES electrical busses. Therefore, there is no reduction in the electrical system margin of safety.

Based on the above evaluation, there is no reduction in the margin of safety associated with the equipment and systems affected by this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 17, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P.O. Box 14042, St. Petersburg, Florida 33733–4042, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the

Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 5, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida.

Dated at Rockville, Maryland, this 9th day of January 1998.

For the Nuclear Regulatory Commission.

L. Raghavan,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1046 Filed 1–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. DPR–28, issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of Vermont Yankee Nuclear Power Station located in Windham County, Vermont.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which requires in each area in which special nuclear material is handled, used, or stored a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated December 16, 1997.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear material at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Vermont Yankee Technical Specifications, the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. Technical Specifications requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR part 50, ''General Design Criteria for Nuclear Power Plants,'' Criterion 62, requires the criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at the Vermont Yankee Station, as identified in the Technical Specifications and the Updated Final Safety Analysis Report (UFSAR).

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts, The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station.

Agencies and Persons Consulted

In accordance with its stated policy, on January 9, 1998, the staff consulted with the Vermont State official, Mr. William K. Sherman, of the Department of Public Service, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 16, 1997, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT.

Dated at Rockville, Maryland, this 9th day of January 1998.

For the Nuclear Regulatory Commission.

Ronald B. Eaton,

Acting Director, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1045 Filed 1–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guides; Withdrawal

The Nuclear Regulatory Commission is withdrawing several guides in its Regulatory Guide Series. Regulatory guides may be withdrawn when (1) they are superseded by the Commission's regulations, (2) equivalent recommendations have been incorporated in approved codes or standards, or (3) there have been changes in methods, techniques, or the need for specific guidance. Since the methods discussed in these regulatory guides fall into one of these categories, the regulatory guides listed below are being withdrawn. New applications for licenses or amendments should address current guidance. However, withdrawal of these regulatory guides does not alter any existing license conditions that were based on these guides. Applications that reference these regulatory guides and are pending as of the date of this notice do not need to be withdrawn or amended.

Regulatory Guide 3.2, Efficiency Testing of Air-Cleaning Systems Containing Devices for Removal of Particles (January 1973)

Regulatory Guide 3.9, Concrete Radiation Shields (June 1973)

Regulatory Guide 3.33, Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Fuel Reprocessing Plant (April 1977)

Regulatory Guide 3.34, Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Uranium Fuel Fabrication Plant (Revision 1, July 1979)

Regulatory Guide 3.35, Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Plutonium Processing and Fuel Fabrication Plant (Revision 1, July 1979)

Regulatory Guide 5.1, Serial Numbering of Fuel Assemblies for Light-Water-Cooled Nuclear Power Reactors (December 1972)

Regulatory Guide 5.14, Use of Observation (Visual Surveillance) Techniques in Material Access Areas (Revision 1, May 1980)

Regulatory Guide 5.24, Analysis and Use of Process Data for the Protection of Special Nuclear Material (June 1974)

Regulatory Guide 5.29, Nuclear Material Control Systems for Nuclear Power Plants (Revision 1, June 1975)

Regulatory Guide 5.30, Materials Protection Contingency Measures for Uranium and Plutonium Fuel Manufacturing Plants (June 1974)

Regulatory Guide 5.45, Standard Format and Content for the Special Nuclear Material Control and Accounting Section of a Special Nuclear Material License Application (Including That for a Uranium Enrichment Facility) (December 1974)

Regulatory Guide 8.3, Film Badge Performance Criteria (February 1973)

In addition, Draft Regulatory Guide DG–0008, ''Applications for the Use of Sealed Sources in Portable Gauging Devices'' (May 1995), is being withdrawn from consideration as a regulatory guide. The NRC recently published NUREG–1556, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Portable Gauge Licenses,'' which contains information on the same subject.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 22nd day of December 1997.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 98–1047 Filed 1–15–98; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's home page (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in January 1998. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in February 1998. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the first quarter (January through March) of 1998.

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

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (described in the statute and the regulation) of the annual yield on 30-year Treasury securities for the month preceding the

beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

For plan years beginning before July 1, 1997, the applicable percentage of the 30-year Treasury yield was 80 percent. The Retirement Protection Act of 1994 (RPA) amended ERISA section 4006(a)(3)(E)(iii)(II) to change the applicable percentage to 85 percent, effective for plan years beginning on or after July 1, 1997. (The amendment also provides for a further increase in the applicable percentage—to 100 percent—when the Internal Revenue Service adopts new mortality tables for determining current liability.)

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in January 1998 is 5.09 percent (*i.e.*, 85 percent of the 5.99 percent yield figure for December 1997).

(Under section 774(c) of the RPA, the amendment to the applicable percentage was deferred for certain regulated public utility (RPU) plans for as long as six months. The applicable percentage for RPU plans has therefore remained 80 percent for plan years beginning before January 1, 1998. For ''partial'' RPU plans, the assumed interest rates to be used in determining variable-rate premiums can be computed by applying the rules in § 4006.5(g) of the premium rates regulation. The PBGC's 1997 premium payment instruction booklet also describes these rules and provides a worksheet for computing the assumed rate.)

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between February 1997 and January 1998. The rates for July through December 1997 in the table (which reflect an applicable percentage of 85 percent) apply only to non-RPU plans. However, the rates for months before July 1997 and after December 1997 apply to RPU (and ''partial'' RPU) plans as well as to non-RPU plans.

For premium payment years beginning in	The assumed interest rate is
February 1997	5.46
March 1997	5.35
April 1997	5.54
May 1997	5.67
June 1997	5.55
July 1997	5.75
August 1997	5.53
September 1997	5.59
October 1997	5.53
November 1997	5.38
December 1997	5.19
January 1998	5.09

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the first quarter (January through March) of 1998, as announced by the IRS, is 9 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From	Through	Interest rate (percent)
1/1/92	3/31/92	9
4/1/92	9/30/92	8
10/1/92	6/30/94	7
7/1/94	9/30/94	8
10/1/94	3/31/95	9
4/1/95	6/30/95	10
7/1/95	3/31/96	9
4/1/96	6/30/96	8
7/1/96	12/31/96	9
1/1/97	3/31/97	9
4/1/97	6/30/97	9
7/1/97	9/30/97	9
10/1/97	12/31/97	9
1/1/98	3/31/98	9

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the first quarter (January through March) of 1998 (*i.e.*, the rate reported for December 15, 1997) is 8.50 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Rate (percent)
1/1/92	3/31/92	7.50
4/1/92	9/30/92	6.50
10/1/92	6/30/94	6.00
7/1/94	9/30/94	7.25
10/1/94	12/31/94	7.75
1/1/95	3/31/95	8.50
4/1/95	9/30/95	9.00
10/1/95	3/31/96	8.75
4/1/96	12/31/96	8.25
1/1/97	3/31/97	8.25
4/1/97	6/30/97	8.25
7/1/97	9/30/97	8.50
10/1/97	12/31/97	8.50
1/1/98	3/31/98	8.50

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in February 1998 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of January 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–1062 Filed 1–14–98; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension:
Rule 15g–9, SEC File No. 270–325, OMB Control No. 3235–0385.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comment on the collection of information described below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 15g–9, Sales Practice Requirements for Certain Low-Priced Securities

Section 15(c)(2) of the Securities Exchange Act of 1934 (the ''Exchange Act'') authorizes the Commission to promulgate rules that prescribe means reasonably designed to prevent fraudulent, deceptive, or manipulative practices in connection with over-the-counter (''OTC'') securities transactions. Pursuant to this authority, the Commission in 1989 adopted Rule 15a–6 (the ''Rule''), which was subsequently redesignated as Rule 15g–9, 17 CFR 240.15g–9. The Rule requires broker-dealers to produce a written suitability determination for, and to obtain a written customer agreement to, certain recommended transactions in low-priced stocks that are not registered on a national securities exchange or authorized for trading on NASDAQ, and whose issuers do not meet certain minimum financial standards. The Rule is intended to prevent the indiscriminate use by broker-dealers of fraudulent, high pressure telephone sales campaigns to sell low-priced securities to unsophisticated customers. The staff estimates that approximately 270 broker-dealers incur an average burden of 78 hours per year to comply with this rule. Thus, the total burden hours to comply with the Rule is estimated at 21,060 hours (270 × 78).

Written 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 estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; 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. Consideration will be given to comments and suggestions submitted in writing on or before March 16, 1998.

Please direct your comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Dated: January 8, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1037 Filed 1–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22995; File No. 812–10794]

Goldman, Sachs & Co. et al.; Notice of Application

January 8, 1998.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (the ''Act'') granting relief from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek exemptive relief to the extent necessary to permit life insurance company separate accounts supporting variable life insurance contracts (and their insurance company depositors) to invest in shares of the Goldman Sachs Variable Insurance Trust or a ''future trust,'' as defined below (together, the ''Trust''), when the following other types of investors also hold shares of the Trust: (1) A variable life insurance (''VLI'') account of a life insurance company that is not an affiliated person of the insurance company depositor of any VLI account, (2) the Trust's investment adviser (representing seed money investments in the Trust), (3) a life insurance company separate account supporting variable annuity contracts (a ''VA account''), and/or (4) a qualified pension or retirement plan. As used herein, a ''future trust'' is any investment company (or investment portfolio or series thereof), other than the Goldman Sachs Variable Insurance Trust, designed to be sold to VLI accounts and to which Applicants or their affiliates may in the future serve as investment advisers, investment sub-advisers, investment managers, administrators, principal underwriters or sponsors.

APPLICANTS: Goldman, Sachs & Co. (''Goldman Sachs''), on behalf of itself and its operating division Goldman Sachs Asset Management (''GSAM''), Goldman Sachs Variable Insurance Trust, and Goldman Sachs Asset Management International (''GSAMI'').

FILING DATE: The application was filed on September 23, 1997 and amended on December 18, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on January 30, 1998, and must be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Michael J. Richman, Goldman, Sachs & Co., 85 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Keith E. Carpenter, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Goldman Sachs Variable Insurance Trust is a business trust organized under the laws of Delaware on September 16, 1997. It is registered under the Act as an open-end management investment company and is a series investment company as defined by Rule 18f–2 under the Act. It is currently comprised of nine investment portfolios. It issues a separate series of shares of beneficial

interest in connection with each investment portfolio (each, a ''Fund''). It may offer each series of its shares to VLI accounts and VA accounts of various life insurance companies (''participating insurance companies'') and to pension and retirement plans qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the ''Code'') (''plans'').

2. Each VLI account and VA account will be established as a segregated asset account by a participating insurance company pursuant to the insurance law of the insurance company's state of domicile. As such, the assets of each will be the property of the participating insurance company and that portion of the assets of such an account equal to the reserves and other contract liabilities with respect to the account will not be chargeable with liabilities arising out of any other business that the insurance company may conduct. The income, gains and losses, realized or unrealized from such an account's assets will be credited to or charged against the account without regard to other income, gains or losses of the insurance company. If a VLI account or VA account is registered as an investment company, it will be a ''separate account'' as defined by Rule 0–1(e) (or any successor rule) under the Act and will be registered as a unit investment trust. For purposes of the Act, the life insurance company that establishes such a registered VLI account or VA account is the depositor and sponsor of the account as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

3. The plans will be pension or retirement plans intended to qualify under Sections 401(a) and 501(a) of the Code. Many of the plans will include a cash or deferred arrangement (permitting salary reduction contributions) intended to qualify under Section 401(k) of the Code. The plans will also be subject to, and will be designed to comply with, the provisions of the Employee Retirement Income Security Act of 1974 (''ERISA'') applicable to either defined benefit or to defined contribution profit-sharing plans.

4. Goldman Sachs is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. Goldman Sachs has been registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') since 1981 and conducts its investment management activities through its operating division, GSAM, and through several investment management affiliates, including GSAMI. Through GSAM, Goldman Sachs serves as investment adviser to Goldman Sachs Variable Insurance Trust's High Yield Fund, Growth and Income Fund, CORE U.S. Equity Fund, CORE Large Cap Growth Fund, CORE Small Cap Equity Fund, Capital Growth Fund and Mid Cap Equity Fund. GSAMI is an affiliate of Goldman Sachs and serves as the investment adviser to Goldman Sachs Variable Insurance Trust's Global Income Fund and International Equity Fund. GSAMI has been registered as an investment adviser under the Advisers Act since 1991.

5. The Applicants propose that the Trust offer and sell its shares to VLI accounts and VA accounts of various participating insurance companies to serve as an investment medium to support viable life insurance contracts (''VLI contracts'') and variable annuity contracts (''VA contracts'') (together, ''variable contracts'') issued through such accounts. As described more fully below, the Trust will only sell its shares to registered VLI accounts and registered VA accounts if each participating insurance company sponsoring such a VLI account or VA account enters into a participation agreement with the Trust. The participation agreements will define the relationship between the trust and each participating insurance company and will memorialize, among other matters, the fact that, except where the agreement specifically provides otherwise, the participating insurance company will remain responsible for establishing and maintaining any VLI account or VA account covered by the agreement and for complying with all applicable requirements of state and federal law pertaining to such accounts and to the sale and distribution of variable contracts issued through such accounts.

6. The use of a common management investment company (or investment portfolio thereof) as an investment medium for both VLI accounts and VA accounts of the same insurance company, or of two or more insurance companies that are affiliated persons of each other, is referred to herein as ''mixed funding.'' The use of a common management investment company (or investment portfolio thereof) as an investment medium for VLI accounts and/or VA accounts of two or more insurance companies that are not affiliated persons of each other, is referred to herein as ''shared funding.''

7. The Trust may sell its shares directly to the plans. Changes in the federal tax law several years ago created the opportunity for investment companies such as the Trust to increase their net assets by selling shares to qualified pension and retirement plans such as the plans. Section 817(h) of the Code imposes certain diversification standards on the assets underlying variable contracts, such as those in each Fund of the Trust. The Code provides that variable contracts will not be treated as annuity contracts or life insurance contracts, as the case may be, for any period (or any subsequent period) for which the underlying assets are not, in accordance with regulations issued by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations (Treas. Reg. 1.817–5) which established specific diversification requirements for investment portfolios underlying variable contracts. The regulations generally provide that, in order to meet these diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more life insurance companies. Notwithstanding this, the regulations also contain an exception to this requirement that permits trustees of a qualified pension or retirement plan to hold shares of an investment company, the shares of which are also held by insurance company segregated asset accounts, without adversely affecting the status of the investment company as an adequately diversified underlying investment for variable contracts issued through such segregated asset accounts (Treas. Reg. 1.817–5(f)(3)(iii)).

8. As a result of this exception to the general diversification requirement, qualified pension and retirement plans, such as the plans, may hold Trust shares and select a Fund of the Trust as an investment option without endangering the tax status of variable contracts as life insurance or annuities, respectively. Trust shares sold to the plans would be held by the trustees of the plans as required by Section 403(a) of ERISA. The trustees or other fiduciaries of the plans may vote Trust shares held by their plans in their own discretion or, if the applicable plan so provides, vote such shares in accordance with instructions from participants in such plans. The use of a common management investment company (or investment portfolio thereof) as an investment medium for VLI accounts, VA accounts and plans, is referred to as ''extended mixed funding.''

Applicants' Legal Analysis

9. Rule 6e–2(b)(15) under the Act provides partial exemptions from

Sections 9(a), 13(a), 15(a), and 15(b) of the Act to VLI accounts supporting scheduled premium VLI contracts and to their life insurance company depositors. The exemptions granted by the Rule are available, however, only where the Trust offers its shares *exclusively* to VLI accounts of the same participati ng insurance company and/or of participating insurance companies that are affiliated persons of the same participating insurance company and then, only where *scheduled* premium VLI contracts are issued through such VLI accounts. Therefore, VLI accounts, their depositors and their principal underwriters could not rely on the exemptions provided by Rule 6e–2(b)(15) if shares of the Trust are held by a VLI account through which flexible premium VLI contracts are issued, a VLI account of an unaffiliated participating insurance company, any VA account or a plan. In other words, Rule 6e–2(b)(15) does not permit a scheduled premium VLI account to invest in shares of a management investment company that serves as a vehicle for mixed funding, extended mixed funding or shared funding.

10. Rule 6e–3(T)(b)(15) under the Act provides partial exemptions from Sections 9(a), 13(a), and 15(b) of the Act to VLI accounts supporting flexible premium variable life insurance contracts and their life insurance company depositors. The exemptions granted by the Rule are available, however, only where the Trust offers its shares exclusvely to VLI accounts (through which either scheduled premium or flexible premium contracts are issued) of the same participating insurance company and/or of participating insurance companies that are affiliated persons of the same participating insurance company, VA accounts of the same participating insurance company or of affiliated participating insurance companies, or the general account of the same participating insurance company or of affiliated participating insurance companies. Therefore, VLI accounts, their depositors and their principal underwriters could not rely on the exemptions provided by Rule 6e–3(T)(b)(15) if shares of the Trust are held by a VLI account of an unaffiliated participating insurance company, a VA account of an unaffiliated participating insurance company, the general account of an unaffiliated participating insurance company or a plan. In other words, Rule 6e–3(T)(b)(15) permits VLI accounts supporting flexible premium VLI contracts to invest in shares of a management investment company that serves as a vehicle for mixed funding but does not permit such a VLI account to invest in shares of a management investment company that serves as a vehicle for extended mixed funding or shared funding.

11. In general, Section 9(a) of the Act disqualifies any person convicted of certain offenses, and any company affiliated with that person, from acting or serving in various capacities with respect to a registered investment company. More specifically, paragraph (3) of Section 9(a) provides that it is unlawful for any company to serve as investment adviser or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a) (1), or (2).

12. Subject to the limitations described above, Rule 6e–2(b)(15)(i) and (ii) and Rule 6e–3(T)(b)(15) (i) and (ii) provide exemptions from Section 9(a) to VLI accounts and their affiliates under certain circumstances and subject to certain conditions that would limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the Trust. The relief provided by Rule 6e–2(b)(15)(i) and Rule 6e–(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of a participating insurance company, or any of the insurance company's affiliates, as long as that person does not participate directly in the management or administration of the Trust. The relief provided by Rule 6e–2(b)(15)(ii) and Rule 6e–3(T)(b)(15)(ii) permits a participating insurance company to serve as the Trust's investment adviser or principal underwriter, provided that none of its personnel who are ineligible pursuant to Section 9(a) of the Act are participating in the management or administration of the Trust.

13. The partial relief provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) limits, in effect, the amount of monitoring of personnel that a participating insurance company and its affiliates would otherwise have to conduct to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. These Rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply the provisions of Section 9(a) to the many hundreds of individuals in a large insurance company complex, most of whom typically have no involvement in matters pertaining to investment companies affiliated with such an organization. These Rules also recognize that, in connection with the Trust, there exists no necessity to apply Section 9(a) to individuals in various participating insurance companies who would have no relationship to the Trust other than that their employer utilizes the Trust to support variable contracts. Applicants assert that no regulatory purpose would be served in extending the Section 9(a) monitoring requirements because of mixed funding, extended mixed funding or shared funding. Participating insurance companies and plans are not expected to play any significant role in the management of the Trust. Those individuals at Goldman Sachs, GSAM and GSAMI who would participate in the management of the Trust will do so regardless of which VLI accounts, VA accounts and plans invest in the Trust. The increased expense of extending the Section 9(a) monitoring requirements to participating insurance companies or plans could reduce the net return realized by investors in VLI accounts, VA accounts or plans and would not provide any material benefit to such investors.

14. Rule 6e–2(b)(15)(iii) and Rule 6e–3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a) and 15(b) of the Act to the extent that those Sections have been deemed by the Commission to require ''pass-through'' voting with respect to management investment company shares held by an insurance company separate account, in order to permit the insurance company to disregard the voting instructions of its VLI contract owners (''VLI owners'') in certain limited circumstances. Because the Commission has deemed Sections 13(a), 15(a) and 15(b) to require a participating insurance company to vote all shares of the Trust held by a VLI account in accordance with instructions from VLI owners, the partial exemptions from these sections provided by subparagraph (b)(15)(iii)(A) of Rule 6e–2 and subparagraph (b)(15)(iii)(A)(*1*) of Rule 6e–3(T) would permit a participating insurance company to disregard the voting instructions of such VLI owners when required to do so by any insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of Rules 6e–2 and 6e–3(T)), if following such instructions would cause the insurance company to: (a) Make (or refrain from making) certain investments that would result in changes in the subclassification or investment objectives of the Trust; or (b) approve or disapprove any contract between the Trust and GSAM or GSAMI

(or another investment adviser or subadviser),

15. Subparagraph (b)(15)(iii)(B) of Rule 6e–2 and subparagraph (b)(15)(iii)(A)(*2*) of Rule 6e–3(T) would permit a participating insurance company to disregard the voting instructions of such VLI owners if the owners initiate any change in the Trust's investment policies, principal underwriter, or investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii), (b)(7)(ii)(B) and (b)(7)(ii)(C) of Rules 6e–2 and 6e–3(T)).

16. Because the Commission has deemed Sections 13(a), 15(a) and 15(b) to require any participating insurance company to vote all shares of the Trust held by the insurer's VLI accounts in accordance with instructions from owners of variable life insurance contracts issued through such account, the partial exemption from these sections provided by subparagraph (b)(15)(iii) of Rule 6e–2 and subparagraph (b)(15)(iii)(A)(*1*) of Rule 6e–3(T) is one that almost all VLI accounts and their participating insurance companies may need to rely on.

17. Both Rule 6e–2 and Rule 6e–3(T) generally recognize that a variable life insurance contract is primarily a life insurance contract containing many important elements unique to life insurance contracts and subject to extensive state insurance regulation. Applicants assert that in adopting subparagraph (b)(15)(iii) of these Rules, the Commission implicitly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters.

18. If the Trust serves as an investment vehicle for mixed funding, extended mixed funding or shared funding, the exemptions otherwise provided by Rule 6e–2(b)(15) would not be available to VLI accounts and their participating insurance company depositors and principal underwriters. Likewise, if the Trust serves as an investment vehicle for extended mixed funding or shared funding, the exemptions otherwise provided by Rule 6e–3(T)(b)(15) would not be available to VLI accounts and their participating insurance companies and principal underwriters.

19. Applicants maintain that VLI owners and VA owners, as investors in the Trust, would have substantially identical interests. Likewise, owners of scheduled premium VLI contracts and flexible premium VLI contracts would, as investors in the Trust, have virtually identical interests.

20. Each Fund of the Trust will be managed to attempt to achieve the investment objective or objectives of such Fund, and not to favor or disfavor any particular participating insurance company or type of variable contract. Applicants assert that there is no reason to believe that the different features of various types of variable contracts, including any ''minimum death benefit'' guarantee under certain VLI contracts, will lead to different investment policies for different types of variable contracts. To the extent that the degree of risk may differ between VLI contracts and VA contracts, the different insurance charges imposed, in effect, adjust any such differences and equalize the insurers' exposure to risk in either case.

21. Furthermore, no single investment strategy can be identified as appropriate to one particular type of variable contract but not another. Each pool of VLI owners and VA owners is composed of individual of diverse financial status, age, and insurance and investment goals. A Fund of the Trust supporting one type of variable contract must accommodate these diverse factors in order to attract and retain owners of other types of variable contracts. Permitting mixed funding will facilitate the success of each Fund and will broaden the base of VLI owners and VA owners and encourage the Trust to add additional Funds.

22. Applicants maintain that qualified retirement plan investors in the Trust would have substantially the same interests as do VLI owners and VA owners. Like VLI and VA owners, qualified retirement plan investors are long-term investors. Therefore, most can be expected not to withdraw their assets from the plans.

23. In additional, neither VLI and VA owners on the one hand nor plan investors on the other would be taxed on the investment return of their respective investments in the Trust. Therefore, they would share a strong interest in the Trust operating in a manner that preserves this tax status. For example, material conflicts between these two groups of investors regarding capital transactions would be unlikely to occur. In this regard, ERISA imposes general diversification requirements on qualified pension or retirement plan investments that are wholly consistent with those required of each Fund of the Trust under Section 817(h) of the Code.

24. VLI accounts. VA accounts and the plans are governed in similar ways. Plan committees (and other plan fiduciaries) have a fiduciary duty to participants that is similar to the obligations that a participating insurance company has to look after the interests of its VLI owners and VA owners. In this respect, Applicants note that participating insurance companies and their VLI accounts would not require any exemptions from the Act other than those necessary for mixed funding and shared funding if participants in certain qualified pension and retirement plans invest indirectly in the Trust when their plan purchases a variable annuity contract offered by a participating insurance company in the qualified plan market. The various plans may or may not offer an annuity option.

25. In light of the fact that plan investors would have beneficial interest in the Trust very similar to those of VLI owners and VA owners, Applicants assert that, provided that they (and VLI accounts and participating insurance companies) comply with the conditions explained below, the addition of the plans as shareholders of the Trust and the addition of participants as persons having beneficial interests in the Trust should not increase the risk of material irreconcilable conflicts among and between investors. Applicants further assert that even if a material irreconcilable conflict involving the plans, or participants arose, the trustees (or other fiduciaries) of the plans, unlike participating insurance companies, can, if their fiduciary duty to the participants requires if, redeem the shares of the Trust held by the plans and make alternative investments without obtaining prior regulatory approval. Similarly, most, if not all, of the plans, unlike the VLI accounts or the VA accounts, may hold cash or other liquid asserts pending their reinvestment in a suitable alternative investment.

26. Applicants maintain that VLI owners and VA owners would benefit from the expected increase in net assets of the Funds of the Trust occasioned by participant investments. Not only should such additional investments not increase the likelihood of material irreconcilable conflicts of interest between or among different types of investors, but such additional investments should reduce some of the costs of investing for variable contract owners. In particular, additional investments would promote economies of scale, permit increased safety through greater portfolio diversification, provide each Fund's investment adviser with greater flexibility due to a larger portfolio and make the addition of future new Funds more feasible.

27. When the Commission last revised Rule 6e–3(T) in 1987, the Treasury

Department had not issued the current regulations (Treas. Reg. 1.817–5) which make it possible for the Trust to sell shares to qualified pension or retirement plans without adversely affecting the tax status of VLI contracts and VA contracts. Applicants submit that, although proposed regulations had been published, the Commission did not envision this possibility when it last examined paragraph (b)(15) of the Rule and might well have broadened the exclusivity provision of that paragraph at that time to include plans such as those covered by this application had this possibility been apparent. In this regard, the Commission has recently issued several orders under Section 6(c) granting the same exemptions requested herein to other Applicants in very similar circumstances.

28. In light of the fact that the proposed plan investments in the Trust should not increase the likelihood of material irreconcilable conflicts and would otherwise benefit VA owners and VLI owners and in light of the recent supporting precedent, Applicants believe that the Commission should grant the requested exemptions.

29. Applicants do not believe that plan investments in the Trust would increase the potential for material irreconcilable conflicts of interest between or among different types of investors. Section 403(a) of ERISA provides that the trustee(s) of a plan must have exclusive authority and discretion to manage and control the plan with two exceptions: (a) When the plan expressly provides that the trustee(s) is subject to the direction of a named fiduciary who is not a trustee in which event the trustee(s) is subject to proper directions made in accordance with the terms of the plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment advisers pursuant to Section 402(c)(3) of ERISA. Absent one of these exceptions, the trustee(s) of the plan would have the exclusive authority and responsibility for exercising voting rights attributable to their plan's investment securities. Where a named fiduciary appoints an investment adviser, the adviser has the authority and responsibility to exercise such voting rights unless the authority and responsibility is reserved to the trustee(s) or a non-trustee fiduciary.

30. Applicants generally expect many of the plans to have their trustees or other fiduciaries exercise voting rights attributable to investment securities held by the plan in their discretion. Some of the plan, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants.

31. Where plans provide participants with the right to give voting instructions, Applicants see no reason to believe that participants in the plans generally or those in a particular plan, either as a single group or in combination with participants in other plans, would vote in a manner that would disadvantage VLI owners or VA owners. The purchase of Trust shares by the plans that provide voting rights does not present any complications not otherwise occasioned by mixed funding or by shared funding.

32. Section 817(h) of the Code is the codification of certain aspects of a series of published and unpublished rulings issued by the Internal Revenue Service directed at the control of investments supporting VLI contracts and VA contracts. In light of Treasury Regulation 1.817–5(f)(3)(iii) which specifically permits ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company, Applicants have concluded that neither the Code, nor other Treasury Regulations or revenue rulings thereunder, would create any inherent conflicts of interest between or among plan investors, VLI owners and VA owners.

33. Although there are differences in the manner in which distributions from the plans and distributions from VLI and VA contracts are taxed, Applicants maintain that these differences will have no impact on the Trust. VLI accounts, VA accounts, participating insurance companies and the plans each will redeem Trust shares in the same manner and using the same procedures. Each will purchase and redeem such shares at net asset value in conformity with Rule 22c–1 under the Act.

34. Applicants do not see any greater potential for material irreconcilable conflicts arising between the interests of plan investors and over Trust investors from possible future changes in the federal tax laws than that which already exists with regard to such conflicts arising between VLI owners and VA owners.

35. Applicants assert that the holding of Trust shares by separate accounts of unaffiliated insurance companies would not entail greater potential for material irreconcilable conflicts arising between or among the interests of VLI owners and VA owners than would mixed funding. Likewise, the holding of Trust shares by separate accounts of unaffiliated insurance companies would not entail greater potential for material irreconcilable conflicts arising between or among the interests of VLI owners, VA owners and plan investors than would extended mixed funding where only separate accounts of affiliated participating insurance companies held such shares.

36. A particular state insurance regulator could require action of an insurer domiciled or licensed in its jurisdiction that conflicts with or is inconsistent with the regulatory requirements of or actions required by the regulator of another state where the insurer is domiciled or licensed. The fact that different insurance companies are domiciled in different states does not enlarge or create significantly different issues in connection with conflicting state regulatory requirements. Affiliation among or between such insurance companies does not diminish the potential for such issues to arise nor, in light of the source of such issues, does it dramatically increase the likelihood of their being resolved.

37. Concern also has existed that material irreconcilable conflicts between or among the interests of VLI owners and/or VA owners of unaffiliated insurance companies were more likely to arise in the event that such companies exercised their limited right to disregard VLI owner voting instructions than would be the case between or among affiliated companies. Applicants assert, however, that the right of an insurance company to disregard VLI owner voting instructions does not raise any issues different from those raised by the authority of different state insurance regulators over separate accounts. Similarly, affiliation between or among insurance companies does not diminish or eliminate the potential for divergent judgments by such companies as to the advisability or legality of a change in investment policies, principal underwriter or investment adviser of a mutual fund in which their separate account invests. Applicants believe that the potential for disagreement between or among insurance companies is limited by requirements in Rule 6e–2 and Rule 6e–3(T) that a company's disregard of voting instructions be reasonable and based on specific good faith determinations. Moreover, in the event that a decision by a participating life insurance company to disregard VLI owners' voting instructions represents a minority position or would preclude a majority vote at a Trust shareholders meeting, the company could be required by the Trust's board of trustees to withdraw from the Trust.

38. Various factors have discouraged a number of life insurance companies

from offering variable contracts. These factors include the cost of organizing and operating a funding medium (such as the Trust), the lack of expertise with respect to investment management (principally with respect to equity investments and derivative instruments) and the lack of name recognition by the public of many such insurers as investment professionals with whom an investor can feel comfortable entrusting their investment dollars. For example, a number of smaller life insurance companies do not find it economically feasible, or within their investment or administrative expertise, to enter the variable contract business on their own. Use of the Funds of the Trust as a mixed funding and shared funding vehicle for variable contracts would reduce or eliminate such concerns for small life insurance companies.

39. Permitting the Trust to serve as a mixed funding and shared funding vehicle also should provide several benefits to variable contract owners by eliminating a significant portion of the costs of establishing and administering separate mutual funds. Participating insurance companies would benefit not only from the investment and administrative expertise of GSAM and GSAMI, but also from the cost efficiencies and investment flexibility afforded by a large pool of assets. Permitting the Trust to serve as a mixed and shared funding vehicle also should make a greater amount of assets available for investment by each Fund than would otherwise be the case and, thereby, promote economies of scale, increase the safety of a Fund by increasing diversification of investments, and/or make the addition of new Funds more feasible. Therefore, making the Trust available to serve as a vehicle for mixed funding and shared funding could encourage more life insurance companies to offer variable contracts and thereby increase competition in the variable contracts market. Such competition, in turn, can be expected to result in more contract variation and in lower fees and charges. Applicants also assert that permitting the Trust to serve as a vehicle for extended mixed funding will result in increased assets for the Funds. This also will benefit owners of variable contracts by promoting economies of scale, increasing the safety of Funds by increasing diversification of investments, and/or make the addition of new Funds more feasible.

40. Applicants submit that regardless of the types of investors in the Trust, they each will be contractually and otherwise obligated to manage each Fund solely and exclusively in accordance with its investment objective(s), policies and restrictions as well as any additional guidelines established by trustees of the Trust. GSAM and GSAMI manage client accounts, and would manage each Fund of the Trust, without regard to the identity of the investors in such accounts. Thus, each Fund will be managed in the same manner as any other open-end management investment company.

41. Applicants see no legal impediment to permitting the Trust to serve as a vehicle for mixed funding, extended mixed funding and shared funding. The Commission has issued numerous orders permitting mixed funding, extended mixed funding and shared funding. Therefore, granting the exemptions requested herein is in the public interest and will not compromise the regulatory purpose of Section 9(a), 13(a), 15(a) or 15(b) of the Act or of Rules 6e–2 and 6e–3(T) thereunder.

42. Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act and/or any rule under it if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order of the Commission that would exempt VLI accounts and their participating insurance companies and principal underwriters as a class from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rule 6e–2 or Rule 6e–3(T)(b)(15) thereunder. The exemption of these classes of parties is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because all of the potential members of the class could obtain the foregoing exemptions for themselves on the same basis as the Applicants, but only at a cost to each of them that is not justified by any public policy purpose. As discussed below, the requested exemptions would only extend to VLI accounts whose participating insurance companies enter into participation agreements with the Trust, which agreements would subject such VLI accounts to the conditions discussed below. The Commission staff also would have the opportunity to review compliance with these conditions by participating insurance companies when it reviews the registration statements under the Securities Act of 1933 filed by each VLI account and VA account before the account could issue any variable contracts. The Commission has previously granted exemptions to classes of similarly situated parties in various contexts and from a wide variety of circumstances, including class exemptions in the context of mixed funding, extended mixed funding and shared funding.

Applicants' Conditions

1. Applicants represent and agree that if the exemptions requested herein are granted, the Trust will only sell shares to VLI accounts if the following conditions are met:

a. A majority of the board of trustees of the Trust shall consist of persons who are not interested persons of the Trust or interested persons of such persons. For this purpose, interested persons means ''interested persons'' as defined by Section 2(a)(19) of the Act, and rules thereunder, and as modified by any applicable Commission orders, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition shall be suspended for: (1) A period of 45 days if the vacancy or vacancies may be filled by the remaining trustees, (2) a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies, or (3) such longer period as the Commission may prescribe by order upon application.

b. The board of trustees of the Trust shall monitor the Trust for the existence of any material irreconcilable conflicts between or among the interests of VLI owners, VA owners and plan investors and determine what action, if any, should be taken in response to those conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (1) An action by any state insurance regulatory authority, (2) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities, (3) an administrative or judicial decision in any relevant proceeding, (4) the manner in which the investments of any Fund are being managed, (5) a difference in voting instructions given by VLI owners, VA owners and plan investors, (6) a decision by a participating insurance company to disregard VLI or VA contract owner voting instructions, and (7) a decision by a plan trustee (or other plan fiduciary) to disregard voting instructions of plan participants.

c. The Trust's prospectus shall disclose that: (1) Its shares are offered in connection with mixed funding, extended mixed funding and shared funding, (2) mixed funding, extended mixed funding and shared funding may present certain conflicts of interest between VA owners, VLI owners and plan investors, and (3) the Trust's board of trustees will monitor the Trust for the existence of any material irreconcilable conflict of interest and determine what action, if any, should be taken in response to such a conflict. The Trust shall also notify the plan trustees and participating insurance companies that similar prospectus disclosure may be appropriate in separate account prospectuses or any plan prospectuses or other plan disclosure documents.

d. The Trust will comply with all of the provisions of the Act relating to security holder (*i.e.*, persons such as VLI owners and VA owners or participants in plans that provide participants with voting rights) voting including Section 16(a), 16(b) (when applicable) and 16(c) (even though the Trust is not a trust of the type described therein).

e. GSAM and GSAMI will report any material irreconcilable conflicts or any potential material irreconcilable conflicts between or among the interests of VLI owners, VA owners and plan investors to the Trust's board of trustees and will assist the board in carrying out the board's responsibilities under these conditions. Such assistance will include, but not be limited to, providing the board, at least annually, with all information reasonably necessary for the board to consider any issues raised by such existing or potential conflicts.

f. All reports sent by participating insurance companies or plans to the board of trustees of the Trust or notices sent by the board to participating insurance companies or plans notifying the recipient of the existence of or potential for a material irreconcilable conflict between the interests of VA owners, VLI owners and plan investors as well as board deliberations regarding such conflicts or such potential conflicts shall be recorded in the board meeting minutes of the Trust or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

2. In addition to the foregoing conditions, Applicants consent to the following conditions and represent and agree that if the exemptions requested herein are granted, the Trust will not sell shares to any VLI account unless the account's participating insurance company enters into a participation agreement with the Trust containing provisions that require the following:

a. A majority vote of the disinterested trustees of the Trust shall represent a conclusive determination as to the existence of a material irreconcilable conflict between or among the interests of VLI owners, VA owners and plan investors. For the purpose of subparagraph e below, a majority vote of the disinterested trustees of the Trust shall represent a conclusive determination as to whether any proposed action adequately remedies any material irreconcilable conflict between or among the interests of VLI owners, VA owners and plan investors. The Trust shall notify each participating insurance company and plan in writing of any determination of the foregoing type.

b. Each participating insurance company will monitor its operations and those of the Trust for the purpose of identifying any material irreconcilable conflicts or potential material irreconcilable conflicts between or among the interests of plan investors, VA owners and VLI owners.

c. Each participating insurance company will report any such conflicts or potential conflicts to the Trust's board of trustees and will provide the board, at least annually, with all information reasonably necessary for the board to consider any issues raised by such existing or potential conflicts or by these conditions. Each participating insurance company will also assist the board in carrying out its responsibilities under these conditions including, but not limited to: (1) Informing the board whenever it disregards VLI owner or VA owner voting instructions, and (2) providing, at least annually, such other information and reports as the board may reasonably request. Each participating insurance company will carry out these obligations with a view only to the interests of owners of its VLI contracts and VA contracts.

d. Each participating insurance company will provide ''pass-through'' voting privileges to owners of registered VA contracts and registered VLI contracts as long as the Act requires such privileges in such cases. Accordingly, such participating insurance companies, where applicable, will vote Trust shares held in their separate accounts in a manner consistent with voting instructions timely received from owners of such VLI and VA contracts. Each participating insurance company will vote Trust shares owned by itself (i.e., that are not attributable to VA contract or VLI contract reserves) in the same proportion as instructions received in a timely fashion from VA owners and VLI owners and shall be responsible for ensuring that it and other participating insurance companies calculate ''pass-through'' votes for VLI accounts and VA accounts in a consistent manner. Each participating insurance company also will vote Trust shares held in any registered VLI account or registered VA account for which it has not received timely voting instructions in the same proportion as instructions received in a timely fashion from VA owners and VLI owners.

e. In the event that a material irreconcilable conflict of interest arises between VA owners or VLI owners and plan investors, each participating insurance company will, at its own expense, take whatever action is necessary to remedy such conflict as it adversely affects owners of its VA contracts or VLI contracts up to and including: (1) Establishing a new registered management investment company, and (2) withdrawing assets attributable to reserves for the VA contracts or VLI contracts subject to the conflict from the Trust and reinvesting such assets in a different investment medium (including another Fund of the Trust) or submitting the question of whether such withdrawal should be implemented to a vote of all affected VA owners or VLI owners, and, as appropriate, segregating the assets supporting the contracts of any group of such owners that votes in favor of such withdrawal, or offering to such owners the option of making such a change. Each participating insurance company will carry out the responsibility to take the foregoing action with a view only to the interests of owners of its VA contracts and VLI contracts. Notwithstanding the foregoing, each participating insurance company will not be obligated to establish a new funding medium for any group of VA contracts or VLI contracts if an offer to do so has been declined by a vote of a majority of the VA owners or VLI owners adversely affected by the conflict.

f. If a material irreconcilable conflict arises because of a participating insurance company's decision to disregard the voting instructions of VLI owners or VA owners and that decision represents a minority position or would preclude a majority vote at any Fund shareholder meeting, then, at the request of the Trust's board of trustees, the participating insurance company will redeem the shares of the Trust to which the disregarded voting instructions relate. No charge or penalty, however, will be imposed in connection with such a redemption.

g. Each participating insurance company and VLI account will continue

to rely on Rule 6e–2(b)(15) and/or Rule 6e–3(T)(b)(15), as appropriate, and to comply with all of the appropriate Rule's conditions. In the event that 6e–2 and/or Rule 6e–3(T) is amended, or any successor rule is adopted, each participating insurance company and VLI account will instead comply with such amended or successor rule.

3. In addition to the foregoing conditions, Applicants consent to the following conditions and represent and agree that if the exemptions requested herein are granted, the Trust will not sell shares of any Fund to a plan if such sale would result in the plan owning 10% more of that Fund's outstanding shares unless the plan first enters into a participation agreement with the Trust containing provisions that require the following:

a. The trustees or plan committees of the plan will: (1) Monitor the plan's operations and those of the Trust for the purpose of identifying any material irreconcilable conflicts or potential material irreconcilable conflicts between or among the interests of plan investors, VA owners and VLI owners, (2) report any such conflicts or potential conflicts to the Trust's board of trustees, (3) provide the board, at least annually, with all information reasonably necessary for the board to consider any issues raised by such existing or potential conflicts and any other information and reports that the board may reasonably request, (4) inform the board whenever it (or another fiduciary) disregards the voting instructions of plan participants (of a plan that provides voting rights to its participants), and (5) ensure that the plan votes Trust shares as required by applicable law and governing plan documents. The trustees or plan committees of the plan will carry out these obligations with a view only to the interests of plan investors in its plan.

b. In the event that a conflict of interest arises between plan investors and VA owners, VLI owners or other investors in the Trust, each plan will, at its own expense, take whatever action is necessary to remedy such conflict as it adversely affects that plan or participants in that plan up to and including: (1) Establishing a new registered management investment company, and (2) withdrawing plan assets subject to the conflict from the Trust and reinvesting such assets in a different investment medium (including another Fund of the Trust) or submitting the question of whether such withdrawal should be implemented to a vote of all affected plan investors and, as appropriate, segregating the assets of any group of such participants that votes in favor of such withdrawal, or offering to such participants the option of making such a change. Each plan will carry out the responsibility to take the foregoing action with a view only to the interests of plan investor in its plan. Notwithstanding the foregoing, no plan will be obligated to establish a new funding medium for any group of participants or plan investors if an offer to do so has been declined by a vote of a majority of the plan's participants or plan investors adversely affected by the conflict.

c. If a material irreconcilable conflict arises because of a plan trustee's (or other fiduciary's) decision to disregard the voting instructions of plan participants (of a plan that provides voting rights to its participants) and that decision represents a minority position or would preclude a majority vote at any shareholder meeting, then, at the request of the Trust's board of trustees, the plan will redeem the shares of the Trust to which the disregarded voting instructions relate. No charge or penalty, however, will be imposed in connection with such a redemption.

4. Applicants also represent and agree that if the exemptions requested herein are granted, the Trust will not sell shares of any Fund to a plan until the plan executes an application containing an acknowledgement of the condition that the Trust cannot sell shares of any Fund if such sale would result in that plan owning 10% or more of the Fund's outstanding shares unless that plan first enters into a participation agreement as described above.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1040 Filed 1–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39526; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of an Application for Clearing Agency Registration

January 8, 1998.

Notice is hereby given that on October 2, 1997, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') an application, pursuant to Sections 17A and 19(a) of the Securities Exchange Act of 1934 (''Act''),[1] requesting that the Commission grant GSCC full registration as a clearing agency or in the alternative extend GSCC's temporary registration as a clearing agency until such time as the Commission is able to grant GSCC permanent registration.[2] The Commission is publishing this notice to solicit comments from interested persons.

On May 24, 1988, the Commission approved pursuant to Sections 17A and 19(a) of the Act and Rule 17Ab2–1(c) promulgated thereunder[3] the application of GSCC for registration as a clearing agency for a period of three years.[4] The Commission subsequently has extended GSCC's registration until February 28, 1998.[5]

GSCC provides clearance and settlement services for its members' transactions in government securities. GSCC offers its members services for next-day settling trades, forward settling trades, auction takedown activity, and repurchase transactions. In connection with GSCC' clearance and settlement services, GSCC provides a centralized loss allocation procedure and maintains margin to offset netting and settlement risks.

GSCC believes that it should obtain permanent registration and has implemented several changes in the past year to enhance its operations. The Commission has recently approved GSCC's proposed rule change that institutes new election procedures for

[1] 15 U.S.C. 78q–1, 78s(a).

[2] Letter from Sal Ricca, President and Chief Operating Officer, GSCC (September 25, 1997).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[5] Securities Exchange Act Release Nos. 29067 (April 11, 1991), 56 FR 14542; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; and 39698 (May 30, 1997), 62 FR 30911.

GSCC's board of directors.[6] Finally, GSCC has received Commission approval for several enhancements to its risk management procedures.[7]

In the order initially granting GSCC temporary registration, the Commission discussed the need for GSCC to amend its standard of care to an ordinary negligence standard for all functions affecting settlement of government securities. GSCC is working with the Commission to develop the appropriate liability structure.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.[8] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the amended application for registration and all written comments will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549. All submissions should refer to File No. 600–23 and should be submitted by February 5, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–978 Filed 1–14–98; 8:45 am]

BILLING CODE 8010–01–M

[6] In the order initially granting GSCC temporary registration, the Commission granted GSCC several exemptions from certain provisions of the Act, including the fair representation standard in Section 17A(b)(3)(C) of the Act [15 U.S.C. 78q–1(b)(3)(C)]. The Commission's recent approval of GSCC's election procedures included a determination that such procedures are consistent with the fair representation standard in Section 17A(b)(3)(C). Securities Exchange Act Release No. 39372 (November 28, 1997), 62 FR 64415.

[7] Securities Exchange Act Release Nos. 38340 (November 21, 1997), 62 FR 63405 (order approving proposed rule change regarding GSCC's loss allocation for blind brokered activity) and 39309 (November 7, 1997), 62 FR 61158 (order approving proposed rule change to institute an auto debit service).

[8] 15 U.S.C. 78s(a)(1).

[9] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26813]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

January 9, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 2, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of serve (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Connecticut Yankee Atomic Power Company (70–9101)

The Connecticut Yankee Atomic Power Company ("CY"), 107 Selden Street, Berlin, Connecticut 06337, a utility subsidiary of The New England Electric System and Northeast Utilities, each a registered holding company, has filed an application-declaration under sections 12(f) and 13(b) of the Act and rules 54, 87, 90 and 91 under the Act.

On December 4, 1996, the board of directors of CY voted unanimously to cease permanently the production of power at its nuclear plant. In connection with the cessation of production, CY seeks authority through December 31, 2002 for an exception from the cost provisions of section 13(b) to sell certain of its remaining non-seller produced goods to its associate companies at fair market value. These goods generally include equipment, including the simulator, materials and supplies inventory, office supplies, and furniture. In addition, CY seeks authority through December 31, 2002 for an exception from the cost provisions of section 13(b) to sell to its associate companies at fair market value credits it has received for the enrichment process performed on previously purchased nuclear fuel. Associate companies to whom the goods and/or credits may be sold could include, but would not be limited to, Northeast Nuclear Energy Company.

Based on its review of sales of similar items, including sales by other utilities implementing decommissioning plans for nuclear plants, CY expects that these goods and credits have a fair market value that is substantially below their book cost to CY. CY believes that a requirement prohibiting the sale of these assets to associate companies at competitive prices will substantially limit the pool of potential bidders and hinder its ability to wind down its business activities economically.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1039 Filed 1–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 1878, January 12, 1998]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: January 12, 1998.

CHANGE IN THE MEETING: Time Change.

The time for the closed meeting scheduled for Thursday, January 15, 1998, at 10:00 a.m., has been changed to 2:00 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: January 12, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1114 Filed 1–13–98; 11:07 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39530; File No. SR–Amex–97–45]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options Qualification Examinations

January 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 19, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to discontinue the use of its Listed Put and Call Option Questionnaire for Registered Personnel, and instead, require affected individuals to satisfactorily complete the Series 42 examination administered by the National Association of Securities Dealers, Inc. (''NASD'').[2]

The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to discontinue its Listed Put and Call Option Questionnaire for Registered Personnel.[3] This examination has been administered to an Amex member or registered employee who was registered and approved by the Exchange prior to 1977,[4] and who wishes to engage in a public options business.[5] The Listed Put and Call Option Questionnaire had been administered by the broker-dealer member organization with which the individual was associated, which would then certify to the Exchange that the applicant had satisfactorily completed the examination.

The Exchange is proposing that, in lieu of the Listed Put and Call Option Questionnaire, members and registered employees seeking to become qualified to engage in a public options business, pursuant to Exchange Rule 920(b) satisfactorily complete the Series 42 examination administered by the NASD. This examination is currently in use by the NASD, and prior to the Exchange's proposed termination of the Listed Put and Call Option Questionnaire, affected individuals were able to take either of the examinations in order to become options qualified. The Exchange, therefore, believes that the proposed termination of the Listed Put and Call Questionnaire examination will result in greater industry-wide consistency in the qualification testing of registered personnel.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act, specifically Section 6(b)(5) in that the proposal, in general, protects investors and the public interest by helping to assure member competence. In addition, the proposal furthers the objectives of Section 6(c)(3)(A) because it is designed to set standards of training, experience and competence and to examine and verify the qualifications of its members and associated persons of its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by February 5, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the Exchange's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires that an exchange have rule that, in general, protect investors and the public interest. Moreover, the Commission finds the proposed rule change consistent with Section 6(c)(3)(A) of the Act[7] in that the proposal is designed to ensure that members, and those persons associated with members, meet certain standards of training, experience and competence.

The Commission believes that replacing the Listed Put and Call Option Questionnaire for Registered Personnel with the NASD's series 42 will provide more consistency in educating and examining for competence for those who wish to engage in a public options

[1] U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 33892 (April 11, 1994), 59 FR 18433 (April 18, 1994) (release approving the Registered Options Representative exam).

[3] This examination was previously referred to as the Put and Call Option Questionnaire for Listed Personnel.

[4] In 1997 the Series 7 examination began to cover standardized options.

[5] *See* Exchange Rule 920.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(c)(3)(A).

business. The Listed Put and Call Option Questionnaire and the Series 42 both consist of 50 multiple choice questions. The Series 42, however, has a question bank of 307 questions so a person who has failed the exam is unlikely to receive the same series of questions upon re-testing, thereby assuring that an individual is properly tested for his competency in the subject matter. Moreover, the Commission believes that because the Series 42 is only given at designated and secured testing sites the integrity of the examination process is protected.

The Commission therefor finds good cause for approving the proposed rule change (SR–Amex–97–45) prior to the thirtieth day after date of publication of notice thereof in the Federal Register.

It is Therefore Ordered, pursuant to Section 19(b)(2),[8] that the proposed rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1038 Filed 1–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39525; File No. SR–Amex–97–29]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change Relating to Listing and Trading of DIAMONDS℠ Trust Units

January 8, 1998.

I. Introduction

On August 11, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade under Amex Rules 1000 *et seq.* DIAMONDS℠, units of beneficial interest in the DIAMONDS Trust. In addition, the Exchange proposes to adopt Amex Rule 1005, ''Down Jones Indexes,'' relating to license and warranty issues.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 39143 (September 29, 1997), 62 FR 51917 (October 3, 1997). No comments were received on the proposal. The Exchange filed Amendment No. 1 to the proposed rule filing on December 3, 1997.[3] This order approves the proposed rule filing as amended.

II. Description

On December 11, 1992,[4] the Commission approved Amex Rules 1000 *et seq.* to accommodate trading on the Exchange of Portfolio Depositary Receipts (''PDRs℠''), securities which represent interests in a unit investment trust (''Trust'') operating on an open-end basis and that hold a portfolio of securities. The Trust sponsor (''Sponsor'') for each series of PDRs is PDR Services Corporation, a wholly-owned subsidiary of Amex.[5] Each Trust is intended to provide investors with an instrument that closely tracks the underlying securities portfolio, that trades like a share of common stock, and that pays to PDR holders periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses, as described in the applicable Trust prospectus. The first Trust to be formed in connection with the issuance of PDRs was based on the Standard & Poor's 500 Index (''S&P 500 Index''), known as Standard & Poor's Depositary Receipts® (''SPDRs''), which have been trading on the Exchange since January 29, 1993.[6] In 1995, the Commission approved Amex's listing and trading of PDRs based on the Standard & Poor's MidCap 400 Index™ (''MidCap SPDRs'').[7]

The Exchange now proposes to list and trade under Rules 1000 *et seq.* DIAMONDS℠, units of beneficial interest in the DIAMONDS Trust.[8] The Sponsor will enter into a trust agreement with the Trustee, State Street Bank and Trust Company, in accordance with Section 26 of the Investment Company Act of 1940 (''1940 Act''). A distributor will act as underwriter of DIAMONDS on an agency basis. All orders to create DIAMONDS in Creation Unit size aggregations must be placed with the distributor, and it will be the responsibility of the distributor to transmit such orders to the Trustee. The distributor is a registered broker-dealer, and a member of the National Association of Securities Dealers, Inc.

The Dow Jones Industrial Average[9]

The DJIA is a price-weighted stock index consisting of 30 stocks traded on the New York Stock Exchange (''NYSE'').[10] The DJIA is called an ''average'' because originally it was calculated by adding up the component stock prices and then dividing by the number of stocks. The method remains the same today, but the divisor (the number that is divided into the total of the stock prices) has been increased to eight significant digits to minimize distortions due to rounding. The DJIA divisor is adjusted due to corporate actions that change the price of any of its component shares. The most frequent reason for such an adjustment is a stock split. For example, suppose a company in the DJIA issues one new share for each share outstanding. After this two-for-one ''split,'' each share of stock is worth half what it was immediately before, other things being equal. But without an adjustment in the divisor, this split would produce a distortion in the DJIA. An adjustment must be made to compensate so that the ''average'' will remain unchanged. At Dow Jones, this adjustment is handled by changing the divisor.[11]

---

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 discusses the composition of the trust securities, the basis for the mandatory termination date of the Trust, applicable trading halt procedures, and applicable equity rules. *See* letter from Michael Cavalier, Associate General Counsel, Legal and Regulatory Policy, Amex, to Sharon Lawson, Senior Special Counsel, Market Regulation, Commission, dated December 3, 1997.

[4] *See* Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (''SPDRs Order'').

[5] ''PDRs'' is a service mark of PDR Services Corp.

[6] *See* SPDRs Order, *supra* note 4.

[7] *See* Securities Exchange Act Release No. 35534 (March 24, 1995), 60 FR 16686 (March 31, 1995). ''Standard & Poor's 500,'' ''Standard & Poor's MidCap 400 Index,'' ''Standard & Poor's Depositary Receipts®,'' ''SPDRs®,'' ''Standard & Poor's MidCap 400 Depositary Receipts'' and ''MidCap SPDRs'' are trademarks of The McGraw-Hill Companies, Inc. and are being used by the Exchange and the Sponsor under license among Standard & Poor's, a division of The McGraw-Hill Companies, Inc., the Exchange and the Sponsor. ''SPDRs'' and ''MidCap SPDRs'' are not sponsored, endorsed, sold, or promoted by S&P, and S&P makes no representation regarding the advisability of investing in SPDRs or MidCap SPDRs.

[8] ''Dow Jones Industrial Average℠,'' ''DJIA℠,'' ''Dow Jones℠'' and ''DIAMONDS'' are each trademarks and service marks of Down Jones & Company, Inc. (''Dow Jones'') and have been licensed for use for certain purposes by the Exchange and the Sponsor. DIAMONDS are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product.

[9] The description of the DJIA included herein is based on materials prepared by Dow Jones and submitted by Amex in its proposed rule filing.

[10] A price-weighted index is an index in which component stocks are weighted according to their price.

[11] Currently, the divisor is recalculated after the close of business on the day prior to the occurrence

Changes in the composition of the DJIA are made entirely by the editors of *The Wall Street Journal* without consultation with the companies, the respective stock exchange, or any official agency. Additions or deletions of components may be made to achieve better representation of the broad market and of American industry.[12]

The DIAMONDS Trust

To be eligible to place orders to create DIAMONDS as described below, an entity or person must either be a participant in the Continuous Net Settlement (''CNS'') system of the National Securities Clearing Corporation (''NSCC'') or a Depository Trust Company (''DTC'') participant. Upon acceptance of an order to create DIAMONDS, the distributor will instruct the Trustee to initiate the book-entry movement of the appropriate number of DIAMONDS to the account of the entity placing the order. DIAMONDS will be registered in book entry only, which records will be kept by DTC.

Payment with respect to creation orders placed through the distributor will be made by (1) the ''in-kind'' deposit with the Trustee of a specified portfolio of securities that is substantially similar in composition to the component shares of the underlying index or portfolio;[13] (2) a cash payment sufficient to enable the Trustee to make a distribution to the holders of beneficial interests in the Trust on the next dividend payment date as if all the securities had been held for the entire accumulation period for the distribution (''Dividend Equivalent Payment''), subject to certain specified adjustments;[14] and (3) a cash payment or adjustment calculated by the Trustee to enable the securities portfolio portion to equal the net asset value of the Trust (the ''Balancing Amount''). The Balancing Amount and the Dividend Equivalent Payment are referred to as the ''Cash Component'' in the case of a creation. The securities and cash accepted by the Trustee are referred to, in the aggregate, as a ''Portfolio Deposit.''

The mandatory termination date of the Trust will be the first to occur of (i) January 30, 2122 or (ii) the date 20 years after the death of the last survivor of eleven persons named in the trust agreement between the Trust Sponsor and the Trustee.[15]

Issuance

Upon receipt of a Portfolio Deposit in payment for a creation order placed through the distributor as described above, the Trustee will issue a specified number of DIAMONDS, which aggregate number is referred to as a ''Creation Unit.'' A Creation Unit for DIAMONDS will be made up of 50,000 DIAMONDS. Individual DIAMONDS can then be traded in the secondary market like other equity securities.[16] The DIAMONDS Trust has been structured to provide for the initial issuance of DIAMONDS at a per unit price which would approximate 1/100th of the value of the DJIA.[17]

It is expected that the Trustee or Sponsor will make available (a) on a daily basis a list of the names and required number of shares for each of the securities in the current Portfolio Deposit; (b) on a minute-by-minute basis throughout the day, a number representing the value (on a per DIAMONDS Unit basis) of the securities portion of a Portfolio Deposit in effect on such day, plus accumulated dividends less expenses through the previous day's close, and (c) on a daily basis, the accumulated dividends, less expenses, per outstanding DIAMONDS Unit.

Transactions in DIAMONDS may be effected on the Exchange until 4:15 p.m. New York time each business day. The minimum fractional change for DIAMONDS shall be 1/64 of $1.00.

Redemption

DIAMONDS in Creation Unit size aggregations generally[18] will be redeemable in kind by tendering them to the Trustee. While holders may sell DIAMONDS in the secondary market at any time, they must accumulate at least 50,000 (or multiples thereof) to redeem through the Trust. DIAMONDS will remain outstanding until redeemed or until the termination of the Trust. Creation Units generally will be redeemable on any business day in exchange for a portfolio of the securities held by the Trust identical in composition to the securities portion of a Portfolio Deposit in effect on the date request is made for redemption, together with a ''Cash Redemption Payment'' (as defined in the Trust prospectus), including accumulated dividends, less expenses, through the date of redemption. The number of shares of each of the securities transferred to the redeeming holder generally will be number of shares of each of the component stocks in a Portfolio Deposit on the day of redemption notice is received by the Trustee, multiplied by the number of Creation Units being redeemed. Nominal service fees may be charged in connection with the creation and redemption of Creation Units. The Trustee will cancel all tendered Creation Units upon redemption.

Distributions

The DIAMONDS Trust will pay monthly dividends. The first ex-dividend date for DIAMONDS will be the third Friday of the third full month following the commencement date of

of the split. The formula used to calculate divisor adjustments is: New Divisor=Current Divisor×Adjusted Sum/Unadjusted of Prices Sum of Prices.

[12] For further details on how the DJIA is maintained, see the Commission's order approving the trading of options on the DJIA (File No. CBOE–97–26) in Securities Exchange Act Release No. 39011 (September 3, 1997), 62 FR 47841 (September 11, 1997).

[13] The securities included in the Portfolio Deposit generally will include all of the component securities of the DJIA. The Trust will not hold an optimized portfolio such as is the case with World Equity Benchmark Shares (''WEBS''), but will hold shares of all of the securities included in the DJIA. The Trustee will hold, as nearly as practicable, an equal number of shares of each of the DJIA securities. *See* Amendment No. 1, *supra* note 3.

[14] *See* ''Distributions'' infra.

[15] Amex state that the basis of the mandatory termination date of the Trust is to comply with the common law rule against perpetuities which provides, in brief, that no estate is valid unless it must vest no later than twenty-one years after lives in being at the creation if the estate, and that any future or present estate is void in its creation if it suspends the absolute power of alienation longer than this period. *See* Amendment No. 1, *supra* note 3.

[16] The DIAMONDS Trust, Series I, filed with the Commission's Division of Investment Management an application seeking, among other things, an order: (1) permitting secondary market transactions in DIAMONDS at negotiated prices, rather than at a current public offering price described in the prospectus as required by Section 22(d) of the 1940 Act and Rule 22c–1; and (2) permitting the sale of DIAMONDS to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by Section 4(3) of the Securities Act of 1933 but may be required according to Section 24(d) of the 1940 Act for redeemable securities issued by a Unit Investment Trust. The Commission granted these exemptions on December 30, 1997. The exemptions permit individual DIAMONDS to be traded in secondary market transactions similar to a closed-end investment company. *See* Investment Company Act Release No. 22979 (December 30, 1997).

[17] As of August 7, 1997 it is estimated that the value of such an individual DIAMONDS Unit would be approximately $81.88.

[18] The Trustee shall have the discretion to deliver the cash equivalent value of an Index security or Index securities, based on the market value of such Index security or securities as of the Evaluation Time on the date such redemption is deemed received by the Trustee, as a part of the Cash Redemption Payment in lieu of delivering the Index security or securities if: (1) the Trustee determines in its discretion that an Index security is likely to be unavailable or available in insufficient quantity for delivery by the Trust upon redemption; or (2) a redeeming investor requests redemption in cash with respect to one or more Index securities, if, for example, the redeemer is restricted by regulation or otherwise from investing or engaging in a transaction in one or more Index securities. *See* Draft Preliminary Prospectus for DIAMONDS Trust, Series 1, at 36.

the Trust unless such date is not a Business Day, in which case the ex-dividend date will be the immediately preceding Business Day (the ''ex-dividend date''). Holders of DIAMONDS as reflected on the records of the DTC and the DTC Participants on the second business day following the ex-dividend date will be entitled to receive an amount representing dividends accumulated through the monthly dividend period which ends on the business day preceding such ex-dividend date net of fees and expenses accrued daily for such period. The payment of dividends will be made on the first business day coincident with or following the Monday preceding the third Friday in the calendar month following the ex-dividend date (the ''Dividend Payment Date''). On the Dividend Payment Date, dividends payable for those securities with ex-dividend dates falling within the period from the ex-dividend date most recently preceding the current ex-dividend date will be distributed. The Trustee will compute on a daily basis the dividends accumulated within each monthly dividend period. Dividend payments will be made through DTC and its participants to all such holders with funds received from the Trustee. The DIAMONDS Trust intends to make the DTC Dividend Reinvestment Service available for use by DIAMONDS holders through DTC Participant brokers for reinvestment of their cash proceeds. An interested investor would have to consult his or her broker to ascertain the availability of dividend reinvestment through such broker.

Criteria for Initial and Continued Listing

Because of the open-end nature of the Trust upon which a series of PDRs is based, the Exchange believes it is necessary to maintain appropriate flexibility in connection with listing a specific Trust. In connection with initial listing, the Exchange will establish a minimum number of PDRs required to be outstanding at the time of commencement of Exchange trading. For DIAMONDS, a minimum of 150,000 DIAMONDS (*i.e.*, three Creation Units of 50,000 DIAMONDS each), will be required to be outstanding when trading begins.

The DIAMONDS Trust will be subject to the initial and continued listing criteria of Rule 1002(b). Rule 1002(b) provides that, following twelve months from the formation of a Trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of a Trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) if the Trust on which the PDRs are based has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the PDRs for 30 or more consecutive trading days; or

(b) if the index on which the Trust is based is no longer calculated; or

(c) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

A Trust shall terminate upon removal from Exchange listing and its PDRs redeemed in accordance with provisions of the Trust prospectus. A Trust may also terminate under such other conditions as may be set forth in the Trust prospectus. For example, the Sponsor, following notice to PDR holders, shall have discretion to direct that the Trust be terminated if the value of securities in such Trust falls below a specified amount.[19] The DIAMONDS Trust may also terminate if the license agreement with Dow Jones terminates.

Trading Halts

Prior to commencement of trading in DIAMONDS, the Exchange will issue a circular to members informing them of Exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set further in Rule 918C(b) in exercising its discretion to halt or suspend trading. These factors would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value;[20] or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[21]

Further, DIAMONDS trading will be halted if the circuit breaker parameters of Rule 117 have been reached. The triggering of futures price limits for the DJIA, S&P 500, S&P 100 or Major Market Index (''MMI'') futures contracts will not, in itself, require a halt in DIAMONDS trading or a delayed opening. However, such an event could be considered by the Exchange along with other factors, such as a halt in options on the DJIA (''DJX''), S&P 100 (''OEX''), S&P 500 (''SPX''), or MMI (''XMI''), in deciding whether to halt trading in DIAMONDS or other index-based derivative securities.[22]

Terms and Characteristics

Under Amex Rule 1000, Commentary .01, Amex members and member organizations are required to provide to all purchasers of DIAMONDS a written description of the terms and characteristics of such securities, in a form prepared by the Exchange, not later than the time a confirmation of the first transaction in each series is delivered to such purchaser. The Exchange also requires that such description be included with any sales material on DIAMONDS that is provided to customers or the public. In addition, the Exchange requires that members and member organizations provide customers the prospectus for DIAMONDS upon request.

A member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase DIAMONDS for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to members and member organizations.

Prior to commencement of trading of DIAMONDS, the Exchange will distribute to Exchange members and member organizations an Information Circular calling attention to these requirements as well as the characteristics of the DIAMONDS Trust and to applicable Exchange rules.

Proposed Rule 1005

The Exchange proposes to adopt Rule 1005 (''Dow Jones Indexes'') stating that Dow Jones has licensed the Exchange to use certain Dow Jones indexes for purposes of the listing and trading of particular series of Portfolio Depositary Receipts on the Exchange, and stating, among other things, that Dow Jones and the Exchange make no warranty, express or implied, as to results to be obtained by any person or entity from the use of the Indexes or any data included therein.

III. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the

[19] With respect to the DIAMONDS Trust, the Sponsor has the discretionary right to terminate the Trust if the value of Trust Securities (as defined in the Trust registration statement) falls below $150,000,000 at any time after six months following, and prior to three years following, inception of the Trust. Following such time, the Sponsor has the discretionary right to terminate the Trust if Trust Securities fall below $350,000,000 in value, adjusted annually for inflation.

[20] Amex Rule 918C(b)(3).

[22] Amex Rule 918C(b)(4).

[22] *See* Amendment No. 1, *supra* note 3.

rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[23] The Commission believes that providing for the exchange-trading of DIAMONDS will offer investors an efficient way of participating in the securities markets. Specifically the Commission believes that the trading of DIAMONDS will provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a low-cost security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day.[24] The Commission also believes that PDRs in general, and DIAMONDS in particular, will benefit investors by allowing them to trade securities based on unit investment trusts in secondary market transactions.[25] Accordingly, as discussed below, the proposed rule change is consistent with the requirements of Section 6(b)(5) that Exchange rules facilitate transactions in securities while continuing to further investor protection and the public interest.[26]

As the Commission noted in previous orders approving other PDR products (SPDRs and MidCap SPDRs) for listing and trading on Amex,[27] the Commission believes that the trading of a security like PDRs in general, and DIAMONDS in particular, which replicate the performance of a broad portfolio of stocks, could benefit the securities markets by, among other things, helping to ameliorate the volatility occasionally experienced in these markets. The Commission believes that the creation of one or more products where actual portfolios of stocks or instruments representing a portfolio of stocks, such as DIAMONDS, can trade at a single location in an auction market environment could alter the dynamics of program trading, because the availability of such single transaction portfolio trading could, in effect, restore the execution of program trades to more traditional block trading techniques.[28]

An individual DIAMOND has a value approximately equal to one-one-hundredth of the value of the DJIA, making it available and useful to individual retail investors desiring to hold a security replicating the performance of a broad portfolio of stocks. Accordingly, the Commission believes that trading of DIAMONDS will provide retail investors with a cost efficient means to make investment decisions based on the direction of the market and a whole and may provide market participants several advantages over existing methods of effecting program trades involving stocks.

The Commission also believes that PDRs, in general, and DIAMONDS, in particular, will provide investors with several advantages over standard open-end mutual fund shares that track a broad-based portfolio of stocks such as the DJIA. In particular, investors will have the ability to trade DIAMONDS continuously throughout the business day in secondary market transactions at negotiated prices.[29] In contrast, pursuant to Investment Company Act Rule 22c–1,[30] holders and prospective holders of open-end mutual fund shares are limited to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors.[31] Accordingly, PDRs in general, and DIAMONDS in particular, will allow investors to (1) respond quickly to changes in the market; (2) trade at a known price; (3) engage in hedging strategies not currently available to retail investors; and (4) reduce transactions costs for trading a portfolio of securities.

Although PDRs in general, and DIAMONDS in particular, are not leveraged instruments, and, therefore, do not possess any of the attributes of stock index options, their prices will still be derived and based upon the securities held in their respective Trusts. In essence, DIAMONDS are equity securities that are priced off a portfolio of stocks based on the DJIA. Accordingly, the level of risk involved in the purchase or sale of DIAMONDS (or a PDR in general) is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for DIAMONDS (and PDRs in general) is based on a basket of stocks. Nonetheless, the Commission has several specific concerns regarding the trading of these securities. In particular, DIAMONDS raise disclosure, market impact, and secondary market trading issues that must be addressed adequately. As discussed in more detail below, the Commission believes Amex adequately addresses these concerns.

The Commission believes that the proposed rule filing contains several provisions that will ensure that investors are adequately apprised of the terms, characteristics, and risks of trading DIAMONDS. As noted above, the proposal contains four aspects addressing disclosure concerns. First, pursuant to Amex Rule 1000(a), Commentary .01, Amex members must provide their customers trading DIAMONDS with a written explanation of any special characteristics and risks attendant to trading such PDR securities (such as DIAMONDS), a in form prepared by Amex. As discussed above, members can obtain DIAMONDS product descriptions for distribution to customers from Amex. Second, members and member organizations must include this written product description with any sales material relating to the series of DIAMONDS that is provided to customers or the public. Third, any other written materials provided by a member or member organization to customers or the public referencing DIAMONDS as an

[23] 15 U.S.C. 78f(b)(5).

[24] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[25] The Commission notes, however, that unlike open-end funds where investors have the right to redeem their fund shares on a daily basis, investors could only redeem PDRs in creation unit share sizes. Nevertheless, PDRs would have the added benefit of liquidity from the secondary market and PDR holders, unlike holders of most other open-end funds, would be able to dispose of their shares in a secondary market transaction.

[26] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[27] *See supra* notes 4 and 7.

[28] Program trading is defined as index arbitrage or any trading strategy involving the related purchase or sale of a ''basket'' or group of fifteen or more stocks having a total market value of $1 million or more.

[29] Because of potential arbitrage opportunities, the Commission believes that DIAMONDS will not trade at a material discount or premium in relation to their net asset value. The mere potential for arbitrage should keep the market price of a DIAMOND comparable to its net asset value, and therefore, arbitrage activity likely will be minimal. In addition, the Commission believes the Trust will tract the underlying index more closely than an open-end index fund because the Trust will accept only in-kind deposits, and, therefore, will not incur brokerage expenses in assembling its portfolio. In addition, the Trust will generally redeem only in kind, thereby enabling the Trust to invest virtually all of its assets in securities comprising the underlying index.

[30] Investment Company Act Rule 22c–1 generally requires that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security, may sell, redeem, or repurchase the security only at a price based on the net asset value next computed after receipt of an investor's request to purchase, redeem, or resell. The net asset value of a mutual fund generally is computed once daily Monday through Friday as designated by the investment company's board of directors. The Commission granted DIAMONDS an exemption from this provision in order to allow them to trade at negotiated prices in the secondary market. *See supra* note 16.

[31] *Id.*

investment vehicle must include a statement, in a form specified by Amex, that a circular and prospectus are available from a broker upon request. Fourth, a member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of DIAMONDS for such omnibus account will be deemed to constitute agreement by the non-member to make the written product description available to its customers on the same terms as member firms. Accordingly, the Commission believes that investors in PDR securities, in general, and DIAMONDS, in particular, will be provided with adequate disclosure of the unique characteristics of the PDR instruments and other relevant information pertaining to the instruments.

Finally, under Amex's proposal there will be no special account opening or customer suitability rules applicable to the trading of DIAMONDS.[32] Nevertheless, pursuant to Amex Rule 1000(a), Amex equity rules governing account opening and suitability will apply. Specifically, these provisions provide that members shall use due diligence to learn the essential facts relative to every customer, order or account opened, and, prior to or promptly after the completion of a transaction for such account, specifically approve the opening of the account.[33]

The Commission believes Amex has adequately addressed the potential market impact concerns raised by the proposal. First, Amex's proposal permits listing and trading of specific PDRs only after review by the Commission. Second, Amex has developed policies regarding trading halts in PDRs. Specifically, the Exchange would halt PDR trading in DIAMONDS if the circuit breaker parameters under Amex Rule 117 were reached.[34] In addition, in deciding whether to halt trading or conduct a delayed opening in PDRs, in general, and DIAMONDS, in particular, Amex represents that it will be guided by, but not necessarily bound to, relevant stock index option trading rules. These rules would permit Amex, when determining whether to halt DIAMONDS trading, to consider whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[35]

The Commission believes that the trading of PDRs is general, and DIAMONDS in particular, on Amex should not adversely impact U.S. securities markets. As to the trading of DIAMONDS, the Commission notes that the corpus of the DIAMONDS Trust is a portfolio of stocks replicating the DJIA, a broad-based price-weighted index consisting of 30 actively-traded and liquid stocks. In fact, as described above, the Commission believes DIAMONDS may provide substantial benefits to the marketplace and investors, including, among others, enhancing the stability of the markets for individual stocks.[36] Accordingly, the Commission believes that DIAMONDS do not contain features that will make them likely to impact adversely the U.S. securities markets.

Finally, the Commission notes that Amex has submitted surveillance procedures for the trading of DIAMONDS and believes that those procedures, which incorporate and rely upon existing Amex surveillance procedures governing equities, are adequate under the Act.

The Commission finds that Amex's proposal contains adequate rules and procedures to govern the trading of DIAMONDS. Specifically, DIAMONDS, like other listed PDRs, are equity securities that will be subject to the full panoply of Amex rules governing the trading of equity securities on Amex, including, among others, rules governing the priority, parity and precedence of orders and the responsibilities of specialists. In addition, Amex has developed specific listing and delisting criteria for PDRs that are applicable to DIAMONDS that will help to ensure that the markets for DIAMONDS will be deep and liquid. As noted above, Amex's proposal provides for trading halt procedures governing DIAMONDS. Finally, the Commission notes that Amex's equity rules governing account opening and suitability will apply to the trading of DIAMONDS.

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 strengthens the proposed rule change by clarifying the nature of composition of the Trust, the reasoning behind the trust term, the trading halt procedures, and the applicable equity trading rules. In addition, the proposed rule change was noticed for the full statutory period and no comment letters were received. Finally, amendment No. 1 does not raise any new regulatory issues. Accordingly, the Commission believes that there is good cause, consistent with Section 6(b)(5) of the Act, to approve Amendment No. 1 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the rule proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No.

[32] This reflects the fact that PDRs are equity products and not an options product, and, therefore, do not necessitate the imposition of options-like rules.

[33] *See* Amex Rule 411.

[34] In addition, for PDRs tied to an index, the triggering of futures price limits for the S&P 500 Index, S&P 100 Index, or MMI futures contracts will not, in itself, result in a halt in PDR trading or a delayed opening. However, the Exchange could consider such an event, along with other factors, such as a halt in trading in OEX, SPX, or MMI options, in deciding whether to halt trading in PDRs.

[35] *See* Amex Rule 918C(b).

[36] Even though PDR transactions may serve as substitutes for transactions in the cash market, and possibly make the order flow in individual stocks smaller than would otherwise be the case, the Commission acknowledges that during turbulent market conditions the ability of large institutions to redeem or create PDRs could conceivably have an impact on price levels in the cash market. In particular, if a PDR is redeemed, the resulting long stock position could be sold into the market, thereby depressing stock prices further. The Commission notes, however, that the redemption or creation of PDRs likely will not exacerbate a price movement because PDRs will be subject to the equity margin requirements of 50% and PDRs are non-leveraged instruments. In addition, as noted above, during turbulent market conditions, the Commission believes PDRs, including SPDRs, MidCap SPDRs and DIAMONDS, in particular, will serve as a vehicle to accommodate and ''bundle'' order flow that otherwise would flow to the cash market, thereby allowing such order flow to be handled more efficiently and effectively. Accordingly, although DIAMONDS, like any other PDR, could, in certain circumstances, have an impact on the cash market, on balance we believe the product will be beneficial to the marketplace and can actually aid in maintaining orderly markets.

SR–Amex–97–29 and should be submitted by February 5, 1998.

IV. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–Amex–97–29), as amended, is approve.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1041 Filed 1–14–98; 8:45 am]

BILLING CODE 8010–01–M

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

The Bureau of Consular Affairs

[Public Notice 2700]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Department of State

ACTION: 60-Day Notice of Proposed Information Collection; DSP–64, Statement Regarding Lost and Stolen Passport.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Consular Affairs.

Title of Information Collection: Statement Regarding Lost and Stolen Passport.

Frequency: On occasion.

Form Number: DSP–64.

Respondents: U.S. Citizens.

Estimated Number of Respondents: 30,000.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 7,500.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting, Chief Information Officer.

[FR Doc. 98–1003 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

[Public Notice 2701]

The Bureau of Consular Affairs; 60-Day Notice of Proposed Information Collection; DSP–10A, Birth Affidavit

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Consular Affairs.

Title of Information Collection: Birth Affidavit.

Frequency: On occasion.

Form Number: DSP–10A.

Respondents: Applicant's eligibility to be documented as a citizen of the United States.

Estimated Number of Respondents: 50,000.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 12,500 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98–1004 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 2702]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of Proposed Information Collection; DS–1423, Request By United States National For and Report of Exception to Section 53.1, Title 22 of the Code of Federal Regulations.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Consular Affairs.

Title of Information Collection: Request by United States National For and Report of Exception to Section 53.1, Title 22 of the Code of Federal Regulations.

Frequency: On occasion.

Form Number: DS–1423.

Respondents: Citizens of the United States.

Estimated Number of Respondents: 2,500.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 625 hours.

Public comments are being solicited to permit the agency to—

• Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.

Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98–1005 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

[Public Notice 2703]

The Bureau of Consular Affairs; 60-Day Notice of Proposed Information Collection; DSP–60, Affidavit Regarding Change of Name

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Consular Affairs.

Title of Information Collection: Affidavit Regarding Change of Name.

Frequency: On Occasion.

Form Number: DSP–60.

Respondents: U.S. Citizens and Nationals.

Estimated Number of Respondents: 75,000.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 18,750 hours.

Public comments are being solicited to permit the agency to—

• Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98–1006 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

The Bureau of Consular Affairs

[Public Notice 2704]

Agency Information Collection Activities; Proposed Collection Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of Proposed Information Collection; DSP–19, Passport Amendment/Validation Application.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Consular Affairs.

Title of Information Collection: Passport Amendment/Validation Application.

Frequency: On occasion.

Form Number: DSP–19.

Respondents: U.S. Citizens.

Estimated Number of Respondents: 150,000.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 37,500.

Public comments are being solicited to permit the agency to—

• Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98–1007 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

The Bureau of Consular Affairs

[Public Notice 2705]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of Proposed Information Collection; DSP–10, Statement of Identity.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Consular Affairs.

Title of Information Collection: Statement of Identity.

Frequency: On occasion.

Form Number: DSP–10.

Respondents: U.S. citizens.

Estimated Number of Respondents: 2,600.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 650 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98–1008 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 2706]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of Proposed Information Collection; Application for Passport/Registration (DSP–11).

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Organizating Office: Bureau of Consular Affairs.

Title of Information Collection: Application for Passport/Registration.

Frequency: On occasion.

Form Number: DSP–11.

Respondents: Citizens and Nationals of the United States who are applying for registration as a U.S. citizen abroad.

Estimated Number of Respondents: 4,400,000.

Average Hours Per Response: 20 minutes.

Total Estimated Burden: 1,466,666.6 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98–1009 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 2702]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of Proposed Information Collection; Application for Passport by Mail (DSP–82).

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Orginating Office: Bureau of Consular Affairs.

Title of Information Collection: Application for Passport by Mail.

Frequency: On occasion.

Form Number: (DSP–82).

Respondents: Individuals who are eligible to apply for a United States passport by mail.

Estimated Number of Respondents: 1,700,000.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 425,000.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for

copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: December 23, 1997.

Glen H. Johnson,

Chief Information Officer, Acting.

[FR Doc. 98–1010 Filed 1–14–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3306]

Trinity Trailer Mfg., Inc.; Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

Trinity Trailer Mfg., Inc. (formerly Farm Bed Mfg., Inc.), of Boise, Idaho, has applied for a three-year temporary exemption from Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

This notice of receipt of the application is published in accordance with agency regulations on the subject and does not represent any judgment by the agency about the merits of the application.

Trinity Trailer manufactures and sells the ''Eagle Bridge,'' self-unloading bulk trailers that have small conveyor belts at the lower rear of the trailer to unload potatoes and other agricultural products. The rear shaft mount for the conveyor belt protrudes 24 inches from the rear of the trailer in order to drop the cargo onto another conveyor belt that is located at the unloading site. Because Standard No. 224 excludes a ''special purpose vehicle,'' the applicant had asked NHTSA on June 28, 1996, for an interpretation that the Eagle Bridge qualified for exclusion because it was manufactured with ''work-performing equipment.'' On August 22, 1997, NHTSA replied that the Eagle Bridge was not excluded. Paragraph S4 of Standard No. 224 defines a special purpose vehicle as ''a trailer or semi-trailer having work-performing equipment * * * that, *while the vehicle is in transit,* resides in or moves through the area that could be occupied by the horizontal member of the rear underride guard * * *.'' (Emphasis added). As NHTSA wrote the applicant, ''[t]he small conveyor belt of the Eagle Bridge at no time passes through the area where the horizontal member of the rear underride guard would be located, and it certainly does not do so while the vehicle is in transit.''

The applicant received NHTSA's interpretation approximately seven months before the due date for compliance. Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. Because of the costs involved in re-engineering its trailers to accommodate a rear impact guard, Trinity Trailer has asked for an exemption of three years. The company presented cost estimates indicating that the costs to conform at the end of a three year period would be $637,720 with a corresponding increase in the price of its trailers of $709, as compared with a cost to conform of $882,920 and a trailer price increase of $2,943 at the end of a one-year exemption. The applicant represents that an increase of this magnitude would effectively price its trailers out of the market. In the absence of an exemption, Trinity Trailer will be forced to close because the Eagle Bridge is its sole product. The company's net income for 1996 was only $137,798 which represented a decline from 1995's net income of $611,145. The company manufactured 263 trailers in the 12-month period preceding the filing of its application.

The applicant believes that it has made a good faith effort to meet Standard No. 224, saying that, prior to requesting its interpretation from NHTSA, ''hundreds of hours were spent to find an automatically retracting rear impact guard,'' only to find that none are available in the United States. Its engineers have not been successful ''in making a moveable guard or a moveable rear shaft and tail fins.'' The application contains the alternate means of compliance that have been examined, and sets forth the reasons for the rejection of each. It believes that it can achieve full compliance by the end of a three-year exemption period.

The applicant believes that an exemption would be in the public interest and consistent with traffic safety objectives because there is no history of injuries from motor vehicle accidents involving the rear conveyor belt system on its trailers. Further, ''the possibility of injury to occupants of a vehicle impacting the rear of a Trinity trailer is minimal because of Trinity's wheels-back design.'' These trailers are used extensively by the agricultural industry in the Pacific Northwest, and the applicant estimates that ''well over half of all potatoes harvested in the States of Idaho and Washington are hauled in Trinity trailers.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket and notice number, and be submitted to: Docket Management, National Highway Traffic Safety Administration, room PL–410, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 2 copies be submitted.

All comments received before the close of business on the comment closing date below will be considered, and will be available for examination in the docket at the above address both before and after that date, from 10 a.m. to 5 p.m. 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.

Comment closing date: February 4, 1998.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on January 9, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–999 Filed 1–14–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 8, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (PD)

OMB Number: 1535–0023.
Form Number: PD F 4000.
Type of Review: Extension.
Title: Request by Owner for Reissue of United States Savings Bonds/Notes to Add Beneficiary or Co-owner, Eliminate Beneficiary or Decedent, Show Change of Name and/or Correct Error in Registration.

Description: The form is used by owners to identify securities for which reissue is requested and to indicate the new registration required.

Respondents: Individuals or households.

Estimated Number of Respondents: 600,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 300,000 hours.

OMB Number: 1535–0042.

Form Number: PD F 2216.

Type of Review: Extension.

Title: Application by Preferred Creditor for Disposition Without Administration Where Deceased Owner's Estate Includes United States Registered Securities and/or Related Checks in an Amount not Exceeding $500.

Description: Used by a preferred creditor of a decedent's estates to request payment of savings bonds/notes and/or related checks not exceeding $500, when estate is not being administered.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 835 hours.

OMB Number: 1535–0091.

Form Number: None.

Type of Review: Extension.

Title: Regulations Governing United States Treasury Certificates of Indebtedness—State and Local Government Series.

Description: These are regulations authorizing the issuing of United States Treasury Bonds, Notes and Certificates of Indebtedness of the State and Local Government Series.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 167 hours.

OMB Number: 1535–0092.

Form Number: PD Fs 4144, 4144–1, 4144–2, 4144–3 and 4144–4.

Type of Review: Extension.

Title: Subscription for Purchase and Issue of U.S. Treasury Securities—State and Local Government Series.

Description: The information is necessary to establish the accounts for owners of securities of State and Local Government Series.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 4,585 hours.

Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–1035 Filed 1–14–98; 8:45 am]

BILLING CODE: 4810–40–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 9, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0090.

Form Number: ATF F 1643 (5100.18).

Type of Review: Extension.

Title: Application for Amended Basic Permit Under the Federal Alcohol Administration Act.

Description: ATF F 1643 is completed by persons who hold a basic permit to operate as an importer or wholesaler, producer, rectifier, bottler, or warehouseman of distilled spirits, wine or malt beverages with ATF, but who intend to change their basic permit due to change in name, trade name, location, or operations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,000 hours.

OMB Number: 1512–0508.

Form Number: ATF F 5300.28.

Recordkeeping Requirement ID Number: ATF REC 5300/28.

Type of Review: Extension.

Title: Application for Registration for Tax-Free Transactions Under 26 U.S.C. 4221 (Firearms and Ammunition).

Description: Businesses, State and local governments, and small businesses apply for registration to sell or purchase firearms or ammunition tax free on this form. ATF uses the form to determine an applicant's qualification.

Respondents: Businesses or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents: 125.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: Other (one-time).

Estimated Total Reporting Burden: 375 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–1036 Filed 1–14–98; 8:45 am]

BILLING CODE 4810–31–P

UNITED STATES INFORMATION AGENCY

NIS College and University Partnerships Program; Notice—Revised Request for Proposals (RFP)

This notice amends the RFP published on November 20, 1997, providing for assistance awards by the Office of Academic Programs of the United States Information Agency to support partnerships with (a) foreign institution(s) of higher education from the New Independent States in specified fields. The RFP is amended to remove the restriction against awards for partnerships with state universities in Azerbaijan. The RFP's closing date remains February 23, 1998. Potential applicants should refer to the RFP published on November 20, 1997 for full

details about applying for assistance awards under this RFP.

FOR FURTHER INFORMATION, CONTACT: Office of Academic Programs; Advising, Teaching, and Specialized Programs Division; College and University Affiliations Program (CUAP), (E/ASU), Room 349, U.S. Information Agency, 301 4th Street, S.W., Washington, DC 20547, phone: (202) 619–4126, fax: (202) 401–1433. Send a message via Internet to: jcebra@usia.gov to request a Solicitation Package. The Solicitation Package includes more detailed award criteria, all application forms, and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax on Demand: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System,'' which is accessed by calling 202/401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify USIA Program Officer Jonathan Cebra on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: January 8, 1998.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–1061 Filed 1–14–98; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 63, No. 10

Thursday, January 15, 1998

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 ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–105–000 and RP89–183–076]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 98–641, beginning on page 1846, in the issue of Monday, January 12, 1998, the docket numbers should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Correction

In notice document 97–32256, beginning on page 65088, in the issue of Wednesday, December 10, 1997, make the following corrections:

1. On page 65088, in the second column, in the second paragraph, in the second line, ''*Communicty*'' should read ''*Community*''.

2. On the same page, in the same column, in the third paragraph, in the 11th line, ''officer''should read ''offices''.

BILLING CODE 1505-01-D

federal register

Thursday
January 15, 1998

Part II

Department of Commerce

Bureau of Export Administration

15 CFR Parts 732, 740, 742, 743, 744, 746, 762, and 774

Implementation of the Wassenaar Arrangement List of Dual-Use Items: Revisions to the Commerce Control List and Reporting Under the Wassenaar Arrangement; Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 732, 740, 742, 743, 744, 746, 762, and 774

[Docket No. 971006239–7239–01]

RIN 0694–AB35

Implementation of the Wassenaar Arrangement List of Dual-Use Items: Revisions to the Commerce Control List and Reporting Under the Wassenaar Arrangement

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: Representatives of thirty-three countries gave final approval July 12–13, 1996 in Vienna, Austria to establish the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The thirty-three countries agreed to control all items in the List of Dual-Use Goods and Technologies with the objective of preventing unauthorized transfers. They further agreed on a target date of November 1, 1996, for implementation of the Wassenaar Lists.

The purpose of this interim rule is to make the changes to the Commerce Control List necessary to implement the Wassenaar List. In addition, this interim rule imposes new reporting requirements on persons that export certain items controlled under the Wassenaar Arrangement to non-member countries in order to fulfill the information exchange requirements of the Wassenaar Arrangement. The Department of Commerce, with other concerned agencies, is reviewing the Export Administration Regulations to determine whether further changes will be required to implement the information sharing provisions of the Wassenaar Arrangement and to make the necessary adjustments to existing country groups.

This rule also revises part 740 of the EAR by removing License Exception availability for certain items controlled for missile technology reasons.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995, August 14, 1996 and August 15, 1997.

DATES: This rule is effective January 15, 1998. Comments on this rule must be received on or before February 17, 1998.

ADDRESSES: Written comments should be sent to Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–0092.

SUPPLEMENTARY INFORMATION:

Background

In July 1996, the United States and thirty-two other countries gave final approval to the establishment of a new multilateral export control arrangement, called the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement contributes to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations of such items. Participating states have committed to exchange information on exports of dual-use goods and technologies to non-participating states for the purposes of enhancing transparency and assisting in developing common understandings of the risks associated with the transfers of these items.

To fulfill U.S. commitments to the Wassenaar Arrangement with regard to dual-use items, this rule amends the Export Administration Regulations (EAR) by imposing new reporting requirements for exports of certain items controlled under the Wassenaar Arrangement. Reports are not required for reexports. These new requirements appear in newly added part 743 of the EAR. Information from exporters will be consolidated by BXA for an aggregate data submission to the participating states.

With respect to certain dual-use commodities, software, and technology, participating states have undertaken commitments to notify each other preferably within 30 days, but no later than 60 days, of an approval of a license that has been denied by another participating state for an essentially identical transaction during the preceding three years. Certain of these items are eligible for License Exceptions authorized by part 740 of the EAR. Therefore, in order to meet Wassenaar Arrangement requirements, exporters on occasion may be informed that the export of a certain item to a specific end-user under a License Exception is not authorized or alternatively, may be requested to provide prior written notification to BXA of an export of a certain item to a specific end-user under a License Exception.

Reports are required to be submitted to BXA semiannually for specified items controlled under the Wassenaar Arrangement exported under License Exceptions LVS, GBS, CIV, CTP, TSR, and GOV. BXA must receive such reports no later than August 1 for exports during the reporting period January 1 through June 30, and no later than February 1 for exports during the reporting period July 1 through December 31. The Export Control Classification Number and paragraph reference as identified on the Commerce Control List, number of units in each shipment, and the country of ultimate destination must be included in each report for each export during the reporting period. Although the exporter must be identified on all reports to BXA, names of exporters will not be released to participating states. Certain additional information requirements apply to digital computers.

Exporters should note that the first report must be submitted to and received by BXA no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. Thereafter, reports are required semiannually according to the provisions of new § 743.1(f) of the EAR.

This rule also amends § 742.12 of the EAR (High Performance Computers) to clarify the reporting and recordkeeping requirements for certain computer and software exports.

This rule also amends part 740 of the EAR by adding appropriate cross-references to reporting requirements under License Exceptions LVS, GBS, CIV, TSR, CTP, and GOV. The major changes in the Commerce Control List (CCL) necessary to implement the Wassenaar Arrangement are summarized below.

In addition, based on interagency agreement, particularly consultations with the Department of State, this rule revises part 740 of the EAR by removing License Exception availability for missile technology (MT) controlled items, except that items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, or 7E101, may be exported as part of a manned aircraft, satellite, land vehicle, or marine vehicle or in quantities

appropriate for replacement parts under License Exceptions TMP, RPL, TSU, or AVS. This action is based on a U.S. Government policy to restrict the proliferation of missile capability and is consistent with the Missile Technology Control Regime (MTCR) multilateral guidelines.

Also, in an effort to comply with our international commitments of the Wassenaar Arrangement, the U.S. has also committed to exercise extreme vigilance for certain items controlled for national security reasons (NS), which are considered most critical to military applications. This rule removes License Exception eligibility for License Exceptions LVS, CIV, TSR, and GOV for certain commodities, technologies, and software controlled for national security reasons for which the U.S. has agreed to license with extreme vigilance.

Category 1—Materials

Additional controls have been added for body armor (1A005), certain fluorocarbon electronic cooling fluids (1C006), certain ''ceramic-ceramic'' materials with oxide or glass matrix (1C007), certain metals and compounds (1C011), and certain material for nuclear heat sources. In addition, controls for ''stress'' limits for metal alloys (1C002), have been modified. Additional clarification of controls are specific for the transition temperature limits on certain ''fibrous or filamentary materials'' (1C010)

Category 2—Material Processing

A significant number of changes have been implemented for machine tools. Specifically, the machine tool entry has been modified to separate the controls on turning, milling and grinding machines. In particular, such machines will no longer be controlled under the Wassenaar Arrangement on the basis of ''tilting spindles'', ''camming'', or ''run-out''. Also, detailed test procedures, as specified by the International Standards Organization (ISO), will no longer be reiterated in the list. This revision will allow the regulations to remain effective while keeping the procedures under which the equipment is measured, current with industry practice. In addition, controls have been removed for ''numerical control'' units and ''motion control boards'', wire feed type electrical discharge machines (2B001), manual machines specially designed for bevel gears (2B003), systems for inspection of hemishells (2B006), and software for ''flexible manufacturing units'' (2D002). Two additional items have been added under 2B001. They include ''specialty machines'' (i.e. deep hole drilling machines) and spin-forming/flow-forming machines. Lastly, controls on spindle assemblies and slide assemblies have been moved from 2B008 to 2B992 as specially designed components therefore.

Category 3—Electronics

A number of controls have been removed for components under Category 3, including microprocessors up to a composite theoretical performance (CTP) value of 260 Mtops, most storage devices (i.e. memory circuits), and on custom integrated circuits (3A001). In addition, the frequency parameter for network analyzers and microwave test receivers have been relaxed, and controls on emulators (3A002) have been removed entirely. The most significant change is in the entries under Category 3B dealing with semiconductor manufacturing equipment. Specifically, these entries have been combined and divided into two ECCNs. In addition, the limit for control of integrated circuits testers have been raised from 50 MHZ to 60 MHZ (3B002).

Category 4—Computers

Under category 4, the CTP value for computers has been raised from 260 Mtops to 2,000 Mtops. The limit on graphic accelerators and graphics coprocessors has been relaxed to a 3–D vector rate of 3,000,000 (4A003). The technology for ''multi-data-stream processing'' has been revised to the control level defined in 4A003.b. (4E002). The technology for magnetic hard disk drives (4E002) has been removed.

Category 5—Telecommunications, Part I

Several sections of Part I, Telecommunication have been removed creating a significant number of changes to the controls on telecommunication equipment. The majority of changes are identified in the following entries.

All controls on telecommunication transmission equipment or systems, having digital cross connect equipment and modems (5A001.b.), have been removed. In addition, controls have been removed on certain communication channel controllers, certain network access controllers, certain radio equipment operating at frequencies of 31 GHz or less, and certain digital signal processing equipment based upon ''user-accessible programmability'' by raising the control parameters in each instance (5A001.b.).

Also, controls have been removed on ''stored program controlled'' switching equipment containing any of the following characteristics, functions or features (5A001.c.):

—''Integrated Services Digital Network'' (ISDN) functions;
—Multi-level priority and pre-emption for circuit switching;
—Routing or switching of ''datagram'' packets;
—Routing for switching of fast select packets;
—Automatic hand-off of cellular radio calls; and
—Digital cross connect equipment.

Additionally, the control parameters for the ''data signaling rate'' for ''communications channel controllers'' and the digital transfer rate for ''network access controllers'' have been modified to relax controls on packet switches, circuit switches and routers. Controls on all general purpose test equipment (e.g. bit error rate testers and protocol analyzers) have been removed (5B001). Controls on software for use of digital switching equipment (5D001) have been removed and controls on development technology for spread spectrum and frequency hopping techniques (5E001.b.) have been added.

Category 5—''Information Security'', Part II

Under Part II, ''Information Security'', certain items have been decontrolled through an expansion of ''Notes'' within the entry of 5A002. These notes state that certain access control equipment (e.g. equipment to protect personal identification numbers [PIN]), data authentication equipment (e.g. equipment which calculates a Message Authentication Code [MAC]) and cryptographic equipment specially designed and limited for use in machines for banking or money transactions are not controlled. In addition, all software for virus protection (5D002) has been removed.

Category 6—Sensors and Lasers

Under the acoustics section, controls for certain wide-swath bathymetric survey systems and terrestrial geophones have been removed. In addition, controls for towed acoustic hydrophone arrays and processing equipment for hydrophone arrays have been modified. Controls for bottom or bay cable systems (6A001) have been added. Under optical sensors, controls for specially designed components of image intensifier tubes (6A002) have been modified. Controls for monospectral imaging sensors have been added. Under optics, controls on certain optical filters and ''fluoride fiber'' cable (6A004) have been removed. Under lasers, certain carbon dioxide lasers, semiconductor lasers, ruby lasers, neodymium doped lasers and free electron lasers (6A005) have

been removed. Under radar, weather balloon tracking radars (6A008) have been removed. For production equipment, equipment for test, inspection and production of lasers (6B005) have been removed. In addition, controls on materials for optical fiber preforms for the manufacture of high birefringence fibers (6C002), materials for certain low optical absorption materials, and materials for optical fiber preforms for the manufacture of fluoride fibers (6C004) have been removed. Controls on software specially designed for bottom or bay cables have been added and controls on certain primary radar target data software (6D003) have been removed. Finally, controls for certain optical fabrication technology and technology for certain optical fibers (6E003) have been removed.

Category 7—Navigation and Avionics

Controls on inertial navigation systems certified for use on ''civil aircraft'' (7A003) have been removed. Also, controls for direction finder equipment (7A007), computer aided design (CAD) software (7D003), and technology for electric actuators for primary flight control and flight control optical sensor arrays (7E004) have been added.

Category 8—Marine

Controls for certain underwater vision systems, certain photographic still cameras and certain light systems (8A002) have been relaxed. Controls on stirling cycle engine air independent power systems (8A002) have been clarified.

Category 9—Propulsion

Under the section dealing with Test, Inspection and Production Equipment, several items have been removed, including automated equipment for measuring airfoil wall thickness, tooling/fixtures, and measuring equipment for hole drilling processing, ceramic core leaching equipment and ceramic shell burn out or firing equipment (9B001). Controls on brush seals have been narrowed by adding a control for a temperature limit (9B003) and expanded by adding tools, dies or fixtures for solid state joining of intermetallic airfoil-to-disk combinations for gas turbine engines (9B004). Transducers/strain gauges/accelerometers/thermocouples for vibration equipment (9B006) have also been removed. Accordingly, under software, controls for certain software for vibration test equipment as well as certain development/production software of test facilities for engines (9D004) have been removed. Finally, a few modifications have been made under technology for gas turbine engine components or systems and controls on helicopter power transfer systems or tilt rotor or tilt wing aircraft (9E003). Specifically, controls have been narrowed on technology for multiple domed combustors (9E003.a.2), the technology for gas bearing for gas turbine engine rotor assemblies (9E003.a.12), and the technology for helicopter, tilt rotor or tilt wing aircraft power transfer systems.

All items removed from national security (NS) controls as a result of the Wassenaar List of Dual-Use Goods and Technologies will continue to be controlled for antiterrorism (AT) reasons.

Numerous entries that are contained on the Wassenaar List of Dual-Use Goods and Technologies are subject to the export licensing authority of the Office of Defense Trade Controls, Department of State. This rule will list all entries that are controlled on the Wassenaar List of Dual-Use Goods and Technologies, but will specify that those entries are under the licensing authority of the Office of Defense Trade Controls, Department of State.

On March 25, 1996 (61 FR 12714), BXA revised the Commerce Control List by adopting the European Union (EU) numbering system and converted our former ECCNs to correspond accordingly. The changes adopted by this rule attempts to further harmonize the CCL with the EU List. This ensures that identical ECCNs on the CCL and the EU List will identify the same item(s). From an enforcement or customs perspective, this common numbering system simplifies export controls for all countries that harmonize to this control list. As a result of this harmonization exercise, it was discovered that certain differences exist between the EU List and the CCL and among agencies within the U.S., in terms of MTCR related controls. These differences predominately exist in the area of technology and software controls. For most of the entries, the EU text was adopted or modified to ensure that it comported to the intent of the MTCR Annex. For those technology and software entries where differences could not be resolved at the interagency level, it was agreed to maintain the control text for those entries as published in the March 25 rule, until these differences are resolved.

To ensure that no overlap in controls exists among the regimes and that the Wassenaar Arrangement list did not decontrol items that are currently controlled on the MTCR Annex, references to certain missile technology controlled entries were included and clarification notes were added to aid the exporter.

In addition, this rule will include ECCN entries for those MTCR items that are under the licensing authority of the Department of State, Office of Defense Trade Controls. Those items are specifically listed on the CCL to inform the exporter that the corresponding EU list entry for such items are under the licensing authority of the Department of State, Office of Defense Trade Controls.

BXA is continuing a comprehensive review of the Commerce Control List (CCL) to account for items controlled by the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), and the Australia Group (AG) and to correct errors published on March 25, 1996, and unavoidably reprinted in this version of the CCL. The review will be based in large part upon the comments received in response to the March 25 rule and upon ongoing efforts to harmonize the CCL with the EU's control list.

Saving Clause

This rule revises the numbering and structure of certain entries on the Commerce Control List. For items under such entries and for April 15, 1998, BXA will accept license applications for items described either by the entries in effect immediately before January 15, 1998 or the entries described in this rule. In addition, shipments of items removed from eligibility for export or reexport under a particular License Exception authorization or the designator NLR, as a result of this regulatory action, may continue to be exported or reexported under that License Exception authorization or designator until February 17, 1998.

Rulemaking Requirements

1. This interim rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) These collections has been approved by the Office of Management and Budget under control numbers 0694–0073, 0694–0086, and 0694–0088. This rule also contains a new collection-of-information requirement subject to

the PRA that has received emergency approval under OMB control number 0694-xxxx. The new information requirement and estimated public burden hours include: recording responses (5 minutes each); filing responses (1 minute each); and transmitting responses to BXA (10 minutes per exporter). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close February 17, 1998. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–5653.

List of Subjects

15 CFR Part 732

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Foreign Trade.

15 CFR Part 743

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 744

Exports, Foreign Trade, Reporting and recordkeeping requirements.

15 CFR Part 746

Embargoes, Exports, Foreign Trade, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and Industry, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign Trade.

Accordingly, parts 732, 740, 742, 744, 746, 762, and 774 of the Export Administration Regulations (15 CFR parts 730 through 799) are amended as follows:

1. The authority citation for parts 732 and 762 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1995 Comp., p. 228; Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 298; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

2. The authority citation for part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 289; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

3. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p, 917; E.O. 12938, 59 FR 59099, 3 CFR, 1995 Comp., p. 950; Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 289; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

4–5. The authority citation for part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 915; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 298; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

6. The authority citation for part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 6004; E.O. 12918, 59 FR 28205, 3 CFR, 1994

Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 298; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

7. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 720; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 298; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

PART 732—[AMENDED]

8. Section 732.4 of the EAR is amended by adding a new paragraph (b)(3)(iv) to read as follows:

§ 732.4 Steps regarding License Exceptions.

* * * * *

(b) * * *

(3) * * *

(iv) If you are exporting under License Exceptions GBS, CIV, LVS, CTP, TSR, or GOV, you should review § 743.1 of the EAR to determine the applicability of certain reporting requirements.

* * * * *

PART 740—[AMENDED]

9. Section 740.2 is amended:

a. By adding a new paragraph (a)(5); and

b. By adding a new paragraph (c) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(5) The item is controlled for missile technology (MT) reasons, except that the items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, or 7E101, may be exported as part of a manned aircraft, satellite, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(2)(ii) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(c) (License Exception AVS for equipment and spare parts for permanent use on a vessel or aircraft).

* * * * *

(c) BXA may by informing the exporter, suspend or revoke any License Exception in order to comply with U.S. Wassenaar obligations. In addition, BXA may inform an exporter, that before using any License Exception, a notice be submitted with BXA concerning the proposed export.

10. Section 740.3 is amended by adding a new paragraph (f) to read as follows:

§ 740.3 Shipments of Limited Value (LVS).

* * * * *

(f) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception LVS.

11. Section 740.4 is revised to read as follows:

§ 740.4 Shipments to Country Group B countries (GBS).

License Exception GBS authorizes exports and reexports to Country Group B (see Supplement No. 1 to part 740) of those commodities controlled to the ultimate destination for national security reasons only and identified by ''GBS—Yes'' on the CCL. See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception GBS.

12. Section 740.5 is amended by adding a new sentence at the end to read as follows:

§ 740.5 Civil end-users (CIV).

* * * See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception CIV.

13. Section 740.6 is amended by adding paragraph (b) to read as follows:

§ 740.6 Technology and software under restriction (TSR).

* * * * *

(b) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception TSR.

14. Section 740.7 is amended by revising paragraph (f) to read as follows:

§ 740.7 Computers (CTP).

* * * * *

(f) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception CTP.

15. Section 740.11 is amended:

a. By revising paragraph (a)(2);

b. By revising paragraph (b)(2)(iii);

c. By revising paragraph (b)(2)(iv), and

d. By adding a new Supplement No. 1, as follows:

§ 740.11 Governments and international organizations (GOV).

* * * * *

(a) * * *

(2) The following items controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) identified on the Commerce Control List may not be exported or reexported under this License Exception to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom: 1C001, 1C012, 5A001.b.9, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.e.1, 6A001.a.2.e.2, 6A002.a.1.c, 6A008.l.3., 6B008, 8A001.b., 8A001.d., 8A002.o.3.b., 9A011; and

(i) ''Composite'' structures or laminates controlled by 1A002.a., having an organic ''matrix'' and made from materials listed under 1C010.c. or 1C010.d.; and

(ii) ''Digital'' computers controlled by 4A003.b. and having a CTP exceeding 10,000 MTOPS; and

(iii) ''Electronic assemblies'' controlled by 4A003.c. and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS; and

(iv) Processing equipment controlled by 6A001.a.2.c. and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Bottom or bay cable systems controlled by 6A001.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems; and

(vi) ''Software'', as follows:

(A) Controlled by 4D001, specially designed for the ''development'' or ''production'' for items controlled by 4A003.b or .c, as defined by paragraphs (a)(2)(ii) and (iii) of this section; and

(B) Controlled by 5D001.a, specially designed for items controlled by 5A001.b.9; and

(C) Controlled by 6D001 for items controlled by 6A008.l.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the ''development'' or ''production'' of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed for the ''development'' of equipment or ''technology'' controlled by 9A011, 9E003.a.1, or by 9E003.a.3, for items controlled by 1A002.a, as

described in paragraph (a)(2)(i) of this section; and

(H) Controlled by 9D002 for ''software'' specially designed for the ''production'' of equipment controlled by 9A011; and

(I) Controlled by 9D004.a or .c.

(b) * * *

(2) * * *

(iii) (A) *Items for official use within national territory by agencies of the U.S. Government.* This License Exception is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except items described in paragraph (a) to Supplement No. 1 of this section:

(B) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain items under this paragraph (b)(2)(iii).

(iv) (A) *Diplomatic and consular missions of a cooperating government.* This License Exception is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except items described in paragraph (b) of Supplement No. 1 of this section.

(B) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain items under this paragraph (b)(2)(iv).

* * * * *

Supplement No. 1 to § 740.11—Additional Restrictions on Use of License Exception GOV

(a) Items for official use within national territory by agencies of the U.S. Government. License Exception GOV is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except:

(1) Items identified on the Commerce Control List as controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) as follows for export or reexport to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: 1C001, 1C012, 5A001.b.9, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.e.1, 6A001.a.2.e.2, 6A002.a.1.c, 6A008.l.3., 6B008, 8A001.b., 8A001.d., 8A002.o.3.b., 9A011; and

(i) ''Composite'' structures or laminates controlled by 1A002.a., having an organic ''matrix'' and made from materials listed under 1C010.c. or 1C010.d.; and

(ii) ''Digital'' computers controlled by 4A003.b. and having a CTP exceeding 10,000 MTOPS; and

(iii) ''Electronic assemblies'' controlled by 4A003.c. and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS; and

(iv) Processing equipment controlled by 6A001.a.2.c. and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Bottom or bay cable systems controlled by 6A001.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems;

(vi) ''Software'', as follows:

(A) Controlled by 4D001, specially designed for the ''development'' or ''production'' for items controlled by 4A003.b or .c, as defined by paragraphs (a)(1)(ii) and (iii) of this Supplement; and

(B) Controlled by 5D001.a, specially designed for items controlled by 5A001.b.9; and

(C) Controlled by 6D001 for items controlled by 6A008.l.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the ''development'' or ''production'' of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed for the ''development'' of equipment or ''technology'' controlled by 9A011, 9E003.a.1, or by 9E003.a.3, for items controlled by 1A002.a, as described in paragraph (a)(1)(i) of this Supplement; and

(H) Controlled by 9D002 for ''software'' specially designed for the ''production'' of equipment controlled by 9A011; and

(I) Controlled by 9D004.a or .c.

(vii) ''Technology'', as follows:

(A) Controlled by 5E001.a for items controlled by 5A001.b.9 or 5D001.a; and

(B) Controlled by 1E001 for items controlled by 1A002.a, 1C001, or 1C102 as described by paragraph (a)(1)(i) of this Supplement; and

(C) Controlled by 6E001 for the ''development'' of equipment or ''software'' in 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.l.3, or 6B008, as described in paragraph (a)(1) of this Supplement; and

(D) Controlled by 6E002 for the ''production'' of equipment controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.l.3, or 6B008, as described in paragraph (a)(1) of this Supplement; and

(E) Controlled by 8E001 for items controlled by 8A001.b, 8A002.o.3.b, or 8A001.d; and

(F) Controlled by 9E001 for items controlled by 9A011, 9D001, or 9D002; and

(G) Controlled by 9E002 for items controlled by 9A011; and

(H) Controlled by 9E003.a.1; and

(I) Controlled by 9E003.a.3 for items controlled by 1A002.a as described in paragraph (a)(1) of this Supplement.

(2) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101 as described in § 742.6(a)(1) of the EAR; or

(4) Encryption items controlled for EI reasons as described in the Commerce Control List.

(b) *Diplomatic and consular missions of a cooperating government.* License Exception GOV is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except:

(1) Items identified on the Commerce Control List as controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) as follows for export or reexport to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: 1C001, 1C012, 5A001.b.9, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.e.1, 6A001.a.2.e.2, 6A002.a.1.c, 6A008.l.3., 6B008, 8A001.b., 8A001.d., 8A002.o.3.b., 9A011; and

(i) ''Composite'' structures or laminates controlled by 1A002.a., having an organic ''matrix'' and made from materials listed under 1C010.c. or 1C010.d.; and

(ii) ''Digital'' computers controlled by 4A003.b. and having a CTP exceeding 10,000 MTOPS; and

(iii) ''Electronic assemblies'' controlled by 4A003.c. and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS; and

(iv) Processing equipment controlled by 6A001.a.2.c. and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Bottom or bay cable systems controlled by 6A001.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems;

(vi) ''Software'', as follows:

(A) Controlled by 4D001, specially designed for the ''development'' or ''production'' for items controlled by 4A003 .b or .c, as defined by paragraphs (b)(1) (ii) or (iii) of this Supplement; and

(B) Controlled by 5D001.a, specially designed for items controlled by 5A001.b.9; and

(C) Controlled by 6D001 for items controlled by 6A008.l.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the ''development'' or ''production'' of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed for the ''development'' of equipment or ''technology'' controlled by 9A011, 9E003.a.1, or by 9E003.a.3, for items controlled by 1A002.a, as described in paragraph (b)(1)(i) of this Supplement; and

(H) Controlled by 9D002 for ''software'' specially designed for the ''production'' of equipment controlled by 9A011; and

(I) Controlled by 9D004 .a or .c.

(vii) ''Technology'', as follows:

(A) Controlled by 5E001.a for items controlled by 5A001.b.9 or 5D001.a; and

(B) Controlled by 1E001 for items controlled by 1A002.a, 1C001, or 1C102 as described by paragraph (b)(1) of this Supplement; and

(C) Controlled by 6E001 for the ''development'' of equipment or ''software'' in 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.l.3, or 6B008, as described in paragraph (b)(1) of this Supplement; and

(D) Controlled by 6E002 for the ''production'' of equipment controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.l.3, or 6B008, as described in paragraph (b)(1) of this Supplement; and

(E) Controlled by 8E001 for items controlled by 8A001.b, 8A002.o.3.b, or 8A001.d; and

(F) Controlled by 9E001 for items controlled by 9A011, 9D001, or 9D002; and

(G) Controlled by 9E002 for items controlled by 9A011; and

(H) Controlled by 9E003.a.1; and

(I) Controlled by 9E003.a.3 for items controlled by 1A002.a as described in paragraph (b)(1)(i) of this Supplement.

(2) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101 as described in § 742.6(a)(1) of the EAR; or

(4) Encryption items controlled for EI reasons as described in the Commerce Control List.

PART 742—[AMENDED]

16. Section 742.6(a)(1) is amended:

a. By removing the phrase ''6D102 (only software for development of items in 6A002.a.1, a.2, a.3, or .c);'' and

b. By revising the phrase ''7E002 (only technology for the production of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft).'' to read ''7E002 (only technology for the production of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E101 (only technology for the use of inertial navigation systems, inertial equipment, and specially designed components for civil aircraft).''

17. Section 742.12 is amended by revising paragraph (a)(3) and by removing paragraph (a)(4) to read as follows:

§ 742.12 High performance computers.

(a) * * *

(3) Exporters must keep accurate records of each export to countries not included in Country Group A:1 (see Supplement No. 1 to part 740 of the EAR) of a computer with a CTP greater than 4,000 MTOPS. These records must be submitted semiannually to BXA and must contain the information as described in § 743.1 of the EAR.

* * * * *

18. A new part 743 is added to read as follows:

PART 743—SPECIAL REPORTING

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 289; and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

§ 743.1 Wassenaar Arrangement.

(a) *Scope.* This section outlines special reporting requirements for exports of certain commodities, software and technology controlled under the Wassenaar Arrangement. Such reports must be submitted to BXA semiannually in accordance with the provisions of paragraph (f) of this section, and records of all exports subject to the reporting requirements of this section must be kept in accordance with part 762 of the EAR. This section does not require reports for reexports.

(b) *Requirements.* You must submit two (2) copies of each report required under the provisions of this section and maintain accurate supporting records (see § 762.2(b) of the EAR) for all exports of items specified in paragraph (c) of this section under any of the following License Exceptions authorized by part 740 of the EAR: License Exceptions GBS, CIV, TSR, LVS, CTP, and GOV. For purposes of this part 743, ''you'' has the same meaning as ''U.S. exporter'', as defined in part 772 of the EAR.

(c) *Items for which reports are required.* (1) You must submit reports to BXA under the provisions of this section only for exports of items controlled under the following ECCNs:

(i) *Category 1:* 1A002, 1C007.c and .d, 1C010.c and .d, 1D002, 1E001, 1E002.e, and 1E002.f.;

(ii) *Category 2:* 2B001.a or .b (certain items only; see Note to this paragraph) 2B001.f, 2B003, 2D001, 2E001, and 2E002;

Note to paragraph (c)(1)(ii): The following are not controlled for NP reasons: turning machines controlled by 2B001.a with a capacity equal to or less than 35 mm diameter; bar machines (Swissturn), limited to machining only bar feed through, if maximum bar diameter is equal to or less than 42 mm and there is no capability of mounting chucks (machines may have drilling and/or milling capabilities for machining parts with diameters less than 42 mm); or milling machines controlled by 2B001.b with x-axis travel greater than two meters and overall ''positioning accuracy'' on the x-axis more (worse) than 0.030 mm. Therefore, exports of such items under License Exception GOV are subject to reporting requirements.

(iii) *Category 3:* 3A002.g.2, 3B001.a.2, 3D001, and 3E001;

(iv) *Category 4:* 4A001.a.2 and .b, 4A003.b and .c (see paragraph (c)(2) of this section), 4D001, 4D003.c, and 4E001;

(v) *Category 5:* 5A001.b.8, 5B001 (items specially designed for 5A001.b.8), 5D001.a and .b, 5E001.a, 5A002, 5B002, 5D002, and 5E002;

(vi) *Category 6:* 6A001.a.1.b, .a.2.c, .a.2.d, and .a.2.e; 6A002.b, 6A004.c and d, 6A006.g and h, 6A008.d, .h, and .k; 6D001, 6D003.a, 6E001, and 6E002;

(vii) *Category 8:* 8A001.c; 8A002.b, .h, .j, .o.3.a, and .p; 8D001, 8D002, 8E001, and 8E002.a; and

(viii) *Category 9:* 9B001.b, 9D001, 9D002, 9D004.a and .c, 9E001, 9E002, 9E003.a.1, 9E003.a.2, .a.3, .a.4, .a.5, .a.8, and .a.9.

(2) Reports for ''digital computers'' and ''electronic assemblies'' controlled under ECCN 4A003.b and .c are required only for computers with a composite theoretical performance (CTP) exceeding 4,000 MTOPS or computer enhancements thereof such that the CTP exceeds 4,000 MTOPS. Records for software controlled by 4D001 are required for software specially designed for the development or production of computers having a CTP exceeding 4,000 MTOPS. For the calculation of CTP, see the Technical Note for Category 4 in the Commerce Control List (Supplement No. 2 to part 774 of the EAR).

(d) *Country Exceptions.* You must report each export subject to the provisions of this section, except for exports to countries identified in Country Group A:1 (see Supplement No. 1 to part 740 of the EAR).

(e) *Information that must be included in each report.* (1) Each report submitted to BXA for items other than those identified in paragraph (e)(2) of this section must include the following information for each export during the time periods specified in paragraph (f) of this section:

(i) Export Control Classification Number and paragraph reference as identified on the Commerce Control List;

(ii) Number of units in the shipment; and

(iii) Country of ultimate destination.

(2) Reports for ''digital computers'' and ''electronic assemblies'' controlled under ECCN 4A003.b and .c must include the following information:

(i) Date of shipment;

(ii) Name and address of the end-user and each intermediate consignee;

(iii) CTP of each computer or aggregation of computing elements in shipment;

(iv) Quantity shipped; and

(v) End-use.

(f) *Frequency and timing of reports.* You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six month time periods spanning from January 1 through June 30 and July 1 through December 31.

(1) The first report must be submitted to and received by BXA no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. Thereafter, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.

(2) Reports for the reporting period ending June 30 must be submitted to and received by BXA no later than August 1.

(3) Reports for the reporting period ending December 31 must be submitted to and received by BXA no later than February 1.

(g) *Mailing address and facsimile number:* (1) Two (2) copies of reports required under this section shall be delivered to one of the following addresses. BXA will not accept reports sent C.O.D.

(i) For deliveries by U.S. postal service:

Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Attn: ''Wassenaar Reports'', Washington, D.C. 20044

(ii) For courier deliveries:

Bureau of Export Administration, U.S. Department of Commerce, Attn: ''Wassenaar Reports'', Room 2705, 14th Street and Pennsylvania Ave., N.W., Washington, D.C. 20230

(2) Reports may also be sent by facsimile to: (202) 482–3345, Attn: ''Wassenaar Reports''.

(h) *Contacts.* General information concerning the Wassenaar Arrangement and reporting obligations thereof is available from the Office of Strategic Trade and Foreign Policy Controls, Tel. (202) 482–0092, Fax: (202) 482–4094.

§ 743.2 [Reserved]

PART 744—[AMENDED]

19. Section 744.8(b) is amended by revising the phrase ''7A006, 7A106, 7A115, 7A994,'' to read ''7A006, 7A994''.

PART 746—[AMENDED]

20. Section 746.8(b)(1)(ii) is amended by revising the phrase ''6E002, 9A115, 9A991.a,'' to read ''6E002, 9A991.a,''.

PART 762—[AMENDED]

21. Section 762.2 is amended by revising paragraphs (b)(35) and (b)(36) and by adding a new paragraph (b)(37) to read as follows:

§ 762.2 Records to be retained.

* * * * *

(b) * * *

(35) § 764.5, Voluntary self-disclosure;

(36) § 766.10, Subpoenas; and

(37) § 743.1, Wassenaar reports.

PART 774—[AMENDED]

22. Supplement No. 1 to part 774 is revised to read as follows:

Supplement No. 1 to Part 774—the Commerce Control List

Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]

A. Systems, Equipment and Components

0A001 ''Nuclear reactors'', i.e., reactors capable of operation so as to maintain a controlled, self-sustaining fission chain reaction, and equipment and components specially designed or prepared for use in connection with a ''nuclear reactor'', including (see List of Items Controlled).

License Requirements

Reason for Control:

Control(s): Items described in 0A001 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: N/A.

Related Controls: N/A

Related Definitions: N/A

Items: a. Pressure vessels, i.e. metal vessels as complete units or X parts therefor, which are specially designed or prepared to contain the core of a ''nuclear reactor'' and are capable of withstanding the operating pressure of the primary coolant, including the top plate for a reactor pressure vessel;

b. Fuel element handling equipment, including reactor fuel charging and discharging machines;

c. Control rods specially designed or prepared for the control of the reaction rate in a ''nuclear reactor'', including the neutron absorbing part and the support or suspension structures therefore, and control rod guide tubes;

d. Electronic controls for controlling the power levels in ''nuclear reactors'', including reactor control rod drive mechanisms and radiation detection and measuring instruments to determine neutron flux levels;

e. Pressure tubes specially designed or prepared to contain fuel elements and the primary coolant in a ''nuclear reactor'' at an operating pressure in excess of 5.1 MPa;

f. Tubes or assemblies of tubes, made from zirconium metal or alloy in which the ratio of hafnium to zirconium is less than 1:500 parts by weight, specially designed or prepared for use in a ''nuclear reactor'';

g. Coolant pumps specially designed or prepared for circulating the primary coolant of ''nuclear reactors'';

h. Internal components specially designed or prepared for the operation of a ''nuclear reactor'', including core support structures, thermal shields, baffles, core grid plates and diffuser plates;

i. Heat exchangers.

0A002 Power generating or propulsion equipment specially designed for use with space, marine or mobile ''nuclear reactors''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

0A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
RS applies to 0A018.c	RS Column 2
AT applies to entire entry	AT Column 1
UN applies to entire entry	Rwanda

License Exceptions

LVS: $5000 for 0A018.a and b; $3000 for 0A018.c; $1500 for 0A018.d through .f; $0 for entire entry for Rwanda

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: 0A018.a, .b, and .c in $ value; 0A018.d, .e, and .f in number.

Related Controls: N/A

Related Definitions: N/A

Items: a. Power controlled searchlights and control units therefor, designed for military use, and equipment mounting such units; and specially designed parts and accessories therefor;

b. Construction equipment built to military specifications, specially designed for airborne transport; and specially designed parts and accessories therefor;

c. Specially designed components and parts for ammunition, except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (all of which are subject to the export licensing authority of the U.S. Department of

State, Office of Defense Trade Controls. (See 22 CFR parts 120 through 130.)

d. Bayonets;

e. Muzzle-loading (black powder) firearms;

Note: Antique small arms dating prior to 1890 and their reproductions are not controlled by this ECCN 0A018.

f. Military helmets, except:

f.1. Conventional steel helmets other than those described by 0A018.f.2 of this entry.

f.2. Helmets, made of any material, equipped with communications hardware, optional sights, slewing devices or mechanisms to protect against thermal flash or lasers.

Note: Helmets described in 0A018.f.1 are controlled by 0A988. Helmets described in 0A018.f.2 are controlled by the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category X).

0A980 Horses by sea.

License Requirements

Reason for Control: SS

Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

0A982 Saps; thumbcuffs, leg irons, shackles, and handcuffs; straight jackets, plastic handcuffs, machetes, conventional steel military helmets, police helmets and shields; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	*Country Chart*
CC applies to entire entry except machetes.	CC Column 1
UN applies to machetes ...	Rwanda

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

0A983 Specially designed implements of torture and thumbscrews; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s): CC applies to entire entry. A license is required for ALL destinations, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

0A984 Shotguns, barrel length 18 inches (45.72 cm) inches or over; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	*Country Chart*
CC applies to shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) or buckshot shotgun shells controlled by this entry, regardless of end-user.	CC Column 1
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm), regardless of end-user.	CC Column 2
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3
UN applies to entire entry	Rwanda

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: This entry does not control shotguns with a barrel length of less than 18 inches (45.72 cm). (See 22 CFR part 121.) These items are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

0A985 Optical sighting devices for firearms (including shotguns controlled by 0A984); discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, etc.) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1
UN applies to entire entry	Rwanda

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

0A986 Shotgun shells, except buckshot shotgun shells, and parts.

License Requirements

Reason for Control: UN

Control(s): UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

0A988 Conventional military steel helmets as described by 0A018.f.1; and machetes.

License Requirements

Reason for Control: UN

Control(s): UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

Note: Exports from the U.S. and transhipments to *Iran* must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

B. Test, Inspection and Production Equipment

0B001 Plant for the separation of isotopes of ''natural uranium'' and ''depleted uranium'', ''special fissile materials'' and ''other fissile materials'', and specially designed or prepared equipment and components therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control:

Control(s): Items described in 0B001 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Plant specially designed for separating isotopes of ''natural uranium'' and ''depleted uranium'', ''special fissile materials'' and ''other fissile materials'', as follows:

a.1. Gaseous diffusion separation plant;
a.2. Gas centrifuge separation plant;
a.3. Aerodynamic separation plant;
a.4. Chemical exchange separation plant;
a.5. Ion-exchange separation plant;
a.6. Atomic vapor ''laser'' isotopic separation plant;
a.7. Molecular ''laser'' isotopic separation plant;
a.8. Plasma separation plant;
a.9. Electro magnetic separation plant;

b. Equipment and components, specially designed or prepared for gaseous diffusion separation process, as follows:

b.1. Bellow valves made of or protected by materials resistant to UF_6 (e.g., aluminum, aluminum alloys, nickel or alloy containing 60 weight percent or more nickel), with a diameter of 40 mm to 1500 mm;

b.2.a. Compressors (positive displacement, centrifugal and axial flowtypes) or gas blowers with a suction volume capacity of 1 m^3/min or more of UF_6, and discharge pressure up to 666.7 kPa, made of or protected by materials resistant to UF_6 (e.g. aluminum, aluminum alloys, nickel or alloy containing 60 weight percent or more nickel);

b.2.b. Rotary shaft seals for compressors or blowers specified in 0B001.b.2.a. and designed for a buffer gas in-leakage rate of less than 1,000 cm^3/min.;

b.3. Gaseous diffusion barriers made of porous metallic, polymer or ceramic materials resistant to corrosion by UF_6 with a pore size of 10 to 100 nm, a thickness of 5 mm or less, and, for tubular forms, a diameter of 25 mm or less;

b.4. Gaseous diffuser housings made of or protected by materials resistant to corrosion by UF_6;

b.5. Heat exchangers made of aluminum, copper, nickel, or alloys containing more than 60 weight percent nickel, or combinations of these metals as clad tubes, designed to operate at sub-atmospheric pressure with a leak rate that limits the pressure rise to less than 10 Pa per hour under a pressure differential of 100 kPa;

c. Equipment and components, specially designed or prepared for gas centrifuge separation process, as follows:

c.1. Gas centrifuges;

c.2. Complete rotor assemblies consisting of one or more rotor tube cylinders;

c.3. Rotor tube cylinders with a thickness of 12 mm or less, a diameter of between 75 mm and 400 mm, made from any of the following high strength-to-density ratio materials:

c.3.a. Maraging steel capable of an ultimate tensile strength of 2,050 MPa or more;

c.3.b. Aluminum alloys capable of an ultimate tensile strength of 460 MPa or more; *or*

c.3.c. ''Fibrous or filamentary materials'' with a ''specific modulus'' of more than 3.18 x 10^6 m and a ''specific tensile strength'' greater than 76.2 x 10^3 m;

c.4. Magnetic suspension bearings consisting of an annular magnet suspended within a housing made of UF_6 resistant materials (e.g. aluminum, aluminum alloys, nickel or alloy containing 60 weight percent or more nickel) containing a damping medium and having the magnet coupling with a pole piece or second magnet fitted to the top cap of the rotor;

c.5. Specially prepared bearings comprising a pivot-cup assembly mounted on a damper;

c.6. Rings or bellows with a wall thickness of 3 mm or less and a diameter of between 75 mm and 400 mm and designed to give local support to a rotor tube or to join a number together, made from any of the following high strength-to-density ratio materials;

c.6.a. Maraging steel capable of an ultimate tensile strength of 2050 MPa or more;

c.6.b. Aluminum alloys capable of an ultimate tensile strength of 460 MPa or more; *or*

c.6.c. ''Fibrous or filamentary materials'' with a ''specific modulus'' of more than 3.18 x 10^6 m and a ''specific tensile strength'' greater than 76.2 x 10^3 m;''.

c.7. Baffles of between 75 mm and 400 mm diameter for mounting inside a rotor tube, made from any of the following high strength-to-density ratio materials:

c.7.a. Maraging steel capable of an ultimate tensile strength of 2050 MPa or more;

c.7.b. Aluminum alloys capable of an ultimate tensile strength of 460 MPa or more; *or*

c.7.c. ''Fibrous or filamentary materials'' with a ''specific modulus'' of more than 3.18 x 10^6 m and a ''specific tensile strength'' greater than 76.2 x 10^3 m;''.

c.8. Top and bottom caps of between 75 mm and 400 mm diameter to fit the ends of a rotor tube, made from any of the following high strength-to-density ratio materials:

c.8.a. Maraging steel capable of an ultimate tensile strength of 2050 MPa or more; *or*

c.8.b. Aluminum alloys capable of an ultimate tensile strength of 460 MPa or more;

c.8.c. ''Fibrous or filamentary materials'' with a ''specific modulus'' of more than 3.18 x 10^6 m and a ''specific tensile strength'' greater than 76.2 x 10^3 m.

c.9. Molecular pumps comprised of cylinders having internally machined or extruded helical grooves and internally machined bores;

c.10. Ring-shaped motor stators for multiphase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600 to 2,000 Hz and a power range of 50 to 1,000 Volt-Amps;

c.11. Frequency changers (converters or inverters) specially designed or prepared to supply motor stators for gas centrifuge enrichment, having all of the following characteristics, and specially designed components therefor:

c.11.a. Multiphase output of 600 to 2000 Hz;

c.11.b. Frequency control better than 0.1%;

c.11.c. Harmonic distortion of less than 2%; *and*

c.11.d. An efficiency greater than 80%;

c.12. Centrifuge housing/recipients to contain the rotor tube assembly of a gas centrifuge, consisting of a rigid cylinder of wall thickness up to 30 mm with precision machined ends and made of or protected by UF_6 resistant materials;

c.13. Scoops consisting of tubes of up to 12 mm internal diameter for the extraction of UF_6 gas from within a centrifuge rotor tube by a Pitot tube action, made of or protected by UF_6 resistant materials;

d. Equipment and components, specially designed or prepared for aerodynamic separation process, as follows:

d.1. Separation nozzles consisting of slit-shaped, curved channels having a radius of curvature less than 1 mm and having a knife-edge contained within the nozzle which separates the gas flowing through the nozzle into two streams;

d.2. Tangential inlet flow-driven cylindrical or conical tubes (vortex tubes), made of or protected by UF_6 resistant materials with a diameter of between 0.5 cm and 4 cm and a length to diameter ratio of 20:1 or less and with one or more tangential inlets;

d.3. Compressors (positive displacement, centrifugal and axial flow types) or gas blowers with a suction volume capacity of 2 m^3/min, made of or protected by materials resistant to UF_6 (e.g., aluminum, aluminum alloys, nickel or alloy containing 60 weight percent or more nickel), and rotary shaft seals therefor;

d.4. Aerodynamic separation element housings, made of or protected by materials resistant to UF_6 to contain vortex tubes or separation nozzles;

d.5. Heat exchangers made of aluminum, copper, nickel, or alloy containing more than 60 weight percent nickel, or combinations of these metals as clad tubes, designed to operate at pressures of 600 kPa or less;

d.6. Bellows valves made of or protected by UF_6 resistant materials with a diameter of 40 to 1500 mm;

d.7. Process systems for separating UF_6 from carrier gas (hydrogen or helium) to 1 ppm UF_6 content or less, including:

d.7.a. Cryogenic heat exchangers and cryoseparators capable of temperatures of $-120°$ C or less;

d.7.b. Cryogenic refrigeration units capable of temperatures of $-120°$ C or less;

d.7.c. Separation nozzle or vortex tube units for the separation of UF_6 from carrier gas;

d.7.d. UF_6 cold traps capable of temperatures of $-20°$ C or less;

e. Equipment and components, specially designed or prepared for chemical exchange separation process, as follows:

e.1. Fast-exchange liquid-liquid centrifugal contactors with stage residence time of 30 seconds or less and resistant to concentrated hydrochloric acid (e.g., made of or lined with suitable plastic materials such as fluorocarbon polymers or lined with glass);

e.2. Fast-exchange liquid-liquid pulse columns with stage residence time of 30 seconds or less and resistant to concentrated hydrochloric acid (e.g., made of or lined with suitable plastic materials such as fluorocarbon polymers or lined with glass);

e.3. Electrochemical reduction cells designed to reduce uranium from one valence state to another;

e.4. Electrochemical reduction cells feed equipment to take U^{+4} from the organic stream and, for those parts in contact with the process stream, made of or protected by suitable materials (e.g., glass, fluorocarbon polymers, polyphenyl sulphate, polyether sulfone and resin-impregnated graphite);

e.5. Feed preparation systems for producing high purity uranium chloride solution consisting of dissolution, solvent extraction and/or ion exchange equipment for purification and electrolytic cells for reducing the uranium U^{+6} or U^{+4} to U^{+3};

e.6. Uranium oxidation systems for oxidation of U^{+3} to U^{+4};

f. Equipment and components, specially designed or prepared for ion-exchange separation process, as follows:

f.1. Fast reacting ion-exchange resins, pellicular or porous macro-reticulated resins in which the active chemical exchange groups are limited to a coating on the surface of an inactive porous support structure, and other composite structures in any suitable form, including particles or fibers, with diameters of 0.2 mm or less, resistant to concentrated hydrochloric acid and designed to have an exchange rate half-time of less than 10 seconds and capable of operating at temperatures in the range of 100° C to 200° C;

f.2. Ion exchange columns (cylindrical) with a diameter greater than 1000 mm, made of or protected by materials resistant to concentrated hydrochloric acid (e.g., titanium or fluorocarbon plastics) and capable of operating at temperatures in the range of 100° C to 200° C and pressures above 0.7 MPa;

f.3. Ion exchange reflux systems (chemical or electrochemical oxidation or reduction systems) for regeneration of the chemical reducing or oxidizing agents used in ion exchange enrichment cascades;

g. Equipment and components, specially designed or prepared for atomic vapor ''laser'' isotopic separation process, as follows:

g.1. High power electron beam guns with total power of more than 50 kW and strip or scanning electron beam guns with a delivered power of more than 2.5 kW/cm for use in uranium vaporization systems;

g.2. Trough shaped crucibles and cooling equipment made of or protected by materials resistant to heat and corrosion of molten uranium or uranium alloy's (e.g., tantalum, yttria-coated graphite, graphite coated with other rare earth oxides or mixtures thereof);

N.B: See also 2A225.

g.3. Product and tails collector systems made of or lined with materials resistant to the heat and corrosion of uranium vapor, such as yttria-coated graphite or tantalum;

g.4. Separator module housings (cylindrical or rectangular vessels) for containing the uranium metal vapor source, the electron beam gun and the product and tails collectors;

g.5. ''Lasers'' or ''laser'' systems for the separation of uranium isotopes with a spectrum frequency stabilizer for operation over extended periods of time;

N.B.: See also 6A005 and 6A205.

h. Equipment and components, specially designed or prepared for molecular ''laser'' isotopic separation process, as follows:

h.1. Supersonic expansion nozzles for cooling mixtures of UF_6 and carrier gas to 150 K or less and made from UF_6 resistant materials;

h.2. Uranium fluoride (UF_5) product collectors consisting of filter, impact, or cyclone-type collectors or combinations thereof, and made of UF_5/UF_6 resistant materials (e.g. aluminum, aluminum alloys, nickel or alloys containing 60 weight percent of nickel and UF_6 resistant fully fluorinated hydrocarbon polymers);

h.3. Equipment for fluorinating UF_5 to UF_6;

h.4. Compressors made of or protected by materials resistant to UF_6 (e.g., aluminum, aluminum alloys, nickel or alloy containing 60 weight percent or more nickel), and rotary shaft seals therefor;

h.5. Process systems for separating UF_6 from carrier gas (e.g., nitrogen or argon) including:

h.5.a. Cryogenic heat exchangers and cryoseparators capable of temperatures of −120 °C or less;

h.5.b. Cryogenic refrigeration units capable of temperatures of −120 °C or less;

h.5.c. UF6 cold traps capable of temperatures of −20 °C or less;

h.6. ''Lasers'' or ''laser'' systems for the separation of uranium isotopes with a spectrum frequency stabilizer for operation over extended periods of time;

N.B.: See also 6A005 and 6A205.

i. Equipment and components, specially designed or prepared for plasma separation process, as follows:

i.1. Product and tails collectors made of or protected by materials resistant to the heat and corrosion of uranium vapor such as yttria-coated graphite or tantalum;

i.2. Radio frequency ion excitation coils for frequencies of more than 100 kHz and capable of handling more than 40 kW mean power;

i.3. Microwave power sources and antennae for producing or accelerating ions, with an output frequency greater than 30 GHz and mean power output greater than 50 kW;

i.4. Uranium plasma generation systems;

i.5. Liquid uranium metal handling systems consisting of crucibles, made of or protected by suitable corrosion and heat resistant materials (e.g., tantalum, yttria-coated graphite, graphite coated with other rare earth oxides or mixtures thereof), and cooling equipment for the crucibles;

N.B.: See also 2A225.

i.6. Separator module housings (cylindrical) for containing the uranium plasma source, radio-frequency drive coil and the product and tails collectors and made of a suitable non-magnetic material (e.g. stainless steel);

j. Equipment and components, specially designed or prepared for electromagnetic separation process, as follows:

j.1. Ion sources, single or multiple, consisting of a vapor source, ionizer, and beam accelerator made of suitable materials (e.g., graphite, stainless steel, or copper) and capable of providing a total ion beam current of 50 mA or greater;

j.2. Ion collector plates for collection of enriched or depleted uranium ion beams, consisting of two or more slits and pockets and made of suitable non-magnetic materials (e.g., graphite or stainless steel);

j.3. Vacuum housings for uranium electromagnetic separators made of non-magnetic materials (e.g. graphite or stainless steel) and designed to operate at pressures of 0.1 Pa or lower;

j.4. Magnet pole pieces with a diameter greater than 2 m;

j.5. High voltage power supplies for ion sources, having all of the following characteristics:

j.5.a. Capable of continuous operation;

j.5.b. Output voltage of 20,000 V or greater;

j.5.c. Output current of 1 A or greater;

j.5.d. Voltage regulation of better than 0.01% over a period of 8 hours;

N.B.: See also 3A227.

j.6. Magnet power supplies (high power, direct current) having all of the following characteristics:

j.6.a. Capable of continuous operation with a current output of 500 A or greater at a voltage of 100 V or greater;

j.6.b. Current or voltage regulation better than 0.01% over a period of 8 hours.

N.B.: See also 3A226.

0B002 Specially designed or prepared auxiliary systems, equipment and components, as follows, (see List of Items Controlled) for isotope separation plant specified in 0B001, made of or protected by UF_6 resistant materials.

License Requirements

Reason for Control:

Control(s): Items described in 0B002 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: N/A

Items: a. Feed autoclaves, ovens or systems used for passing UF_6 to the enrichment process;

b. Desublimers or cold traps, used to remove UF_6 from the enrichment process for subsequent transfer upon heating;

c. Product and tails stations for transferring UF_6 into containers;

d. Liquefaction or solidification stations used to remove UF_6 from the enrichment process by compressing and converting UF_6 to a liquid or solid form;

e. Piping systems and header systems specially designed for handling UF_6 within gaseous diffusion, centrifuge or aerodynamic cascades made of or protected by UF_6 resistant materials;

f.1. Vacuum manifolds or vacuum headers having a suction capacity of 5 m^3/minute or more; *or*

f.2. Vacuum pumps specially designed for use in UF_6 bearing atmospheres;

g. UF_6 mass spectrometers/ion sources specially designed or prepared for taking on-line samples of feed, product or tails from UF_6 gas streams and having all of the following characteristics:

g.1. Unit resolution for mass of more than 320 amu;

g.2. Ion sources constructed of or lined with nichrome or monel, or nickel plated;

g.3. Electron bombardment ionization sources; and

g.4. Collector system suitable for isotopic analysis.

0B003 Plant for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment and components therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $ value
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Plant for the production of UF_6;

b. Equipment and components, as follows, specially designed of prepared for UF_6 production:

b.1. Fluorination and hydrofluorination screw and fluid bed reactors and flame towers;

b.2. Distillation equipment for the purification of UF_6.

0B004 Plant for the production of heavy water, deuterium or deuterium compounds, and specially designed or prepared equipment and components therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control:

Control(s): Items described in 0B004 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Plant for the production of heavy water, deuterium or deuterium compounds, as follows:

a.1. Hydrogen sulphide-water exchange plants;

a.2. Ammonia-hydrogen exchange plants;

a.3. Hydrogen distillation plants;

b. Equipment and components, as follows, designed for:

b.1. Hydrogen sulphide-water exchange process:

b.1.a. Tray exchange towers;

b.1.b. Hydrogen sulphide gas compressors;

b.2. Ammonia-hydrogen exchange process:

b.2.a. High-pressure ammonia-hydrogen exchange towers;

b.2.b. High-efficiency stage contactors;

b.2.c. Submersible stage recirculation pumps;

b.2.d. Ammonia crackers designed for pressures of more than 3 MPa;

b.3. Hydrogen distillation process:

b.3.a. Hydrogen cryogenic distillation towers and cold boxes designed for operation below 35 K (−238° C);

b.3.b. Turboexpanders or turboexpander-compressor sets designed for operation below 35 K (−238° C);

b.4. Heavy water concentration process to reactor grade level (99.75 weight percent deuterium oxide):

b.4.a. Water distillation towers containing specially designed packings;

b.4.b. Ammonia distillation towers containing specially designed packings;

b.4.c. Catalytic burners for conversion of fully enriched deuterium to heavy water;

b.4.d. Infrared absorption analyzers capable of on-line hydrogen-deuterium ratio analysis where deuterium concentrations are equal to or more than 90 weight percent.

0B005 Plant specially designed for the fabrication of ''nuclear reactor'' fuel elements and specially designed equipment therefor.

License Requirements

Reason for Control:

Control(s): Items described in 0B005 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: A plant for the fabrication of ''nuclear reactor'' fuel elements includes equipment which: (a) Normally comes into direct contact with or directly processes or controls the production flow of nuclear materials; (b) Seals the nuclear materials within the cladding; (c) Checks the integrity of the cladding or the seal; *and* (d) Checks the finish treatment of the solid fuel
Items: The List of Items Controlled is contained in the ECCN heading

0B006 Plant for the reprocessing of irradiated ''nuclear reactor'' fuel elements, and specially designed or prepared equipment and components therefor, including (see List of Items Controlled).

License Requirements

Reason for Control:

Control(s): Items described in 0B006 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Fuel element chopping or shredding machines, i.e. remotely operated equipment to cut, chop, shred or shear irradiated ''nuclear reactor'' fuel assemblies, bundles or rods;

b. Dissolvers, critically safe tanks (e.g. small diameter, annular or slab tanks) specially designed or prepared for the dissolution of irradiated ''nuclear reactor'' fuel, which are capable of withstanding hot, highly corrosive liquids, and which can be remotely loaded and maintained;

c. Counter-current solvent extractors and ion-exchange processing equipment specially designed or prepared for use in a plant for the reprocessing of irradiated ''natural uranium'', ''depleted uranium'' or ''special fissile materials'' and ''other fissile materials'';

d. Process control instrumentation specially designed or prepared for monitoring or controlling the reprocessing of irradiated ''natural uranium'', ''depleted uranium'' or ''special fissile materials'' and ''other fissile materials'';

e. Holding or storage vessels specially designed to be critically safe and resistant to the corrosive effects of nitric acid;

Note: Critically safe tanks may have the following features:

1. Walls or internal structures with a boron equivalent of at least two percent;

2. A maximum diameter or 175 mm for cylindrical vessels; or

3. A maximum width of 75 mm for either a slab or annular vessel.

f. Complete systems specially designed or prepared for the conversion of plutonium nitrate to plutonium oxide;

g. Complete systems specially designed or prepared for the production of plutonium metal.

Note: Plant for the reprocessing of irradiated ''nuclear reactor'' fuel elements includes equipment and components which normally come into direct contact with and directly control the irradiated fuel and the major nuclear material and fission product processing streams.

0B008 Equipment for ''nuclear reactors''.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $ value
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Simulators specially designed for ''nuclear reactors'';
b. Ultrasonic or eddy current test equipment specially designed for ''nuclear reactors''.

0B009 Plant for the conversion of uranium and equipment specially designed or prepared therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control:
Control(s): Items described in 0B009 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Systems for the conversion of uranium ore concentrates to UO_3;
b. Systems for the conversion of UO_3 to UF_6;
c. Systems for the conversion of UO_3 to UO_2;
d. Systems for the conversion of UO_2 to UF_4;
e. Systems for the conversion of UF_4 to UF_6;
f. Systems for the conversion of UF_4 to uranium metal;
g. Systems for the conversion of UF_6 to UO_2;
h. Systems for the conversion of UF_6 to UF_4.

0B986 Equipment specially designed for manufacturing shotgun shells; and ammunition hand-loading equipment for both cartridges and shotgun shells.

License Requirements

Reason for Control: UN
Control(s): UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

C. Materials

0C001 ''Natural uranium'' or ''depleted uranium'' or thorium in the form of metal, alloy, chemical compound or concentrate and any other material containing one or more of the foregoing.

License Requirements

Reason for Control:
Control(s): Items described in 0C001 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 1A290. (2) This entry does not control: (a) Four grams or less of ''natural uranium'' or ''depleted uranium'' when contained in a sensing component in instruments (see 10 CFR part 110); or (b) ''Depleted uranium'' specially fabricated for the following civil non-nuclear applications: Shielding; Packaging; Ballasts; or Counter-weights
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

0C002 ''Special fissile materials'' and ''other fissile materials''; except, four ''effective grams'' or less when contained in a sensing component in instruments.

License Requirements

Reason for Control:
Control(s): Items described in 0C002 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The List of Items Controlled is Contained in the ECCN heading

0C004 Deuterium, heavy water, deuterated paraffins and other compounds of deuterium, and mixtures and solutions containing deuterium, in which the isotopic ratio of deuterium to hydrogen exceeds 1:5000.

License Requirements

Reason for Control:
Control(s): Items described in 0C004 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

0C005 Graphite, nuclear-grade, having a purity level of less than 5 parts per million ''boron equivalent'' and with a density greater than 1.5 g/cm^3.

License Requirements

Reason for Control:
Control(s): Items described in 0C005 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

0C006 Nickel powder or porous nickel metal, specially prepared for the manufacture of gaseous diffusion barriers, as follows (see List of Items Controlled).

License Requirements

Reason for Control:
Control(s): Items described in 0C006 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: See also 1C240
Related Definitions: N/A
Items: a. Powder with a nickel purity content of 99.9 weight percent or more and a mean particle size of less than 10 micrometers measured by American Society for Testing and Materials (ASTM) B330 standard and a high degree of particle size uniformity; *or*
b. Porous nickel metal produced from materials specified in 0C006.a.

0C201 Specially prepared compounds or powders, other than nickel, resistant to corrosion by UF_6 (e.g. aluminum oxide and fully fluorinated hydrocarbon polymers), for the manufacture of gaseous diffusion barriers, having a purity of 99.9 weight percent or more and a mean particle size of less than 10 micrometers measured by American Society for Testing and Materials (ASTM) B330 standard and a high degree of particle size uniformity.

License Requirements

Reason for Control:
Control(s): Items described in 0C201 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

D. Software

0D001 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of goods controlled by this Category.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to ''software'' for items controlled by 0B003.	NP Column 1
NP applies to ''software'' for items controlled by 0B008.	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) ''Software'' for items controlled by 0A001, 0A002, 0B001, 0B002, 0B004, 0B005, 0B006, 0B009, 0C001, 0C002, 0C004, 0C005, 0C006, and 0C201 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (2) ''Software'' for items controlled by 0A002 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121)
Related Definitions: N/A
Items: The List of Items Controlled is contained in the ECCN heading

E. Technology

0E001 ''Technology'' according to the Nuclear Technology Note for the ''development'', ''production'' or ''use'' of items controlled by this Category.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to ''technology'' for items controlled by 0B003.	NP Column 1
NP applies to ''technology'' for items controlled by 0B008.	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: ''Technology'' for items controlled by 0A001, 0A002, 0B001, 0B002, 0B004, 0B005, 0B006, 0B009, 0C001, 0C002, 0C004, 0C005, 0C006, and 0C201 are subject to the export licensing authority of the Department of Energy (see 10 CFR part 810)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

0E018 ''Technology'' for the ''development'', ''production'', or ''use'' of items controlled by 0A018.b through 0A018.e.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1
UN applies to entire entry	Rwanda

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

0E984 ''Technology'' for the ''development'' or ''production'' of shotguns controlled by 0A984 and buckshot shotgun shells.

License Requirements

Reason for Control: CC, UN

Control(s)	*Country Chart*
CC applies to ''technology'' for shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) and shotgun shells, regardless of end-user.	CC Column 1
CC applies to ''technology'' for shotguns with a barrel length over 24 in. (60.96 cm), regardless of end-user.	CC Column 2
CC applies to ''technology'' for shotguns with a barrel length over 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3
UN applies to entire entry	Rwanda

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 1—Materials, Chemicals, ''Microorganisms'' & ''Toxins''

A. Systems, Equipment and Components

1A001 Components made from fluorinated compounds, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: Items specially designed or modified for missiles or for items on the U.S. Munitions List are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121.)
Related Definitions: N/A
Items: a. Seals, gaskets, sealants or fuel bladders specially designed for ''aircraft'' or aerospace use made from more than 50% by weight of any of the materials controlled by 1C009.b or 1C009.c;

b. Piezoelectric polymers and copolymers made from vinylidene fluoride materials controlled by 1C009.a:

b.1. In sheet or film form; *and*

b.2. With a thickness exceeding 200 μm;

c. Seals, gaskets, valve seats, bladders or diaphragms made from fluoroelastomers containing at least one vinylether monomer, specially designed for ''aircraft'', aerospace or missile use.

1A002 ''Composite'' structures or laminates, having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry except finished or semi-finished items specially designed for purely civilian applications as follows: sporting goods, automotive industry, machine tool industry, and medical applications.	NS Column 2
NP applies to 1A002.b.1 in the form of tubes with an inside diameter between 75 mm and 400 mm.	NP Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $1500; N/A for ''composite'' structures or laminates controlled by 1A002.a, having an organic ''matrix'' and made from materials controlled by 1C010.c or 1C010.d
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: (1) See also 1A202, 9A010, and 9A110. (2) This entry does not control ''composite'' structures or laminates made from epoxy resin impregnated carbon ''fibrous or filamentary materials'' for the repair of aircraft structures of laminates, provided that the size does not exceed one square meter (1 m^2)
Related Definitions: N/A
Items: a. An organic ''matrix'' and made from materials controlled by 1C010.c, 1C010.d or 1C010.e; *or*

b. A metal or carbon ''matrix'' and made from:

b.1. Carbon ''fibrous or filamentary materials'' with:

b.1.a. A ''specific modulus'' exceeding 10.15 x 10^6 m; *and*

b.1.b. A ''specific tensile strength'' exceeding 17.7 x 10^4 m; *or*

b.2. Materials controlled by 1C010.c.

Technical Notes: (1) Specific modulus: Young's modulus in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2) C) and a relative humidity of (50±5)%. (2) Specific tensile strength: ultimate tensile strength in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2) C) and a relative humidity of (50±5)%.

1A003 Manufactures of non-fluorinated polymeric substances controlled by 1C008.a.3 in film, sheet, tape or ribbon form with either of the following characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $200
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: This entry does not control manufactures when coated or laminated with copper and designed for the production of electronic printed circuit boards
Related Definitions: N/A
Items: a. With a thickness exceeding 0.254 mm; *or*

b. Coated or laminated with carbon, graphite, metals or magnetic substances'

1A004 Protective and detection equipment and components, not specially designed for military use. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

1A005 Body armor, and specially designed components therefor, not manufactured to military standards or specifications, nor to their equivalents in performance.

License Requirements

Reason for Control: NS, UN, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
UN applies to entire entry. A license is required for items controlled by this entry to Cuba, Libya, North Korea and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.	
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) Bulletproof and bullet resistant vests (body armor) NIJ levels III and IV, are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (2) This entry does not control individual suits of body armor and accessories therefor, when accompanying their users for his/her own personal protection. (3) This entry does not control body armor designed to provide frontal protection only from both fragment and blast from non-military explosive devices
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1A102 Resaturated pyrolized carbon-carbon materials designed for ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

1A202 Composite structures, other than those controlled by 1A002, in the form of tubes with an inside diameter of between 75 mm and 400 mm made with any of the ''fibrous or filamentary materials'' specified in 1C210.a or with carbon prepreg materials controlled by 1C210.c.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See also 9A010 and 9A110
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1A225 Platinized catalysts specially designed or prepared for promoting the hydrogen isotope exchange reaction between hydrogen and water for the recovery of tritium from heavy water or for the production of heavy water.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1A226 Specialized packings for use in separating heavy water from ordinary water and made of phosphor bronze mesh (chemically treated to improve wettability) and designed for use in vacuum distillation towers.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1A227 High-density (lead glass or other) radiation shielding windows greater than 0.09 m^2 on cold area and with a density greater than 3 g/cm^3 and a thickness of 100 mm or greater; and specially designed frames therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1A290 Depleted uranium (any uranium containing less than 0.711% of the isotope U–235) in shipments of more than 1,000 kilograms in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: (1) This entry does not control depleted uranium in fabricated forms for use in munitions. See 22 CFR part 121 for depleted uranium subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (2) Depleted uranium that is not fabricated for use in munitions or fabricated into commodities solely to take advantage of its high density (e.g., aircraft, ship, or other counterweights) or in the forms listed in this entry are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.) (3) See also 0C001
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1A984 Chemical agents, including tear gas formulation containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloroacetophenone (CN), except in individual containers with a net weight of 20 grams or less; smoke bombs; non-irritant smoke flares, canisters, grenades and charges; other pyrotechnic articles having dual military and commercial use; and fingerprinting powders, dyes and inks.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

B. Test, Inspection and Production Equipment

1B001 Equipment for the production of fibers, prepregs, preforms or ''composites'' controlled by 1A002 or 1C010, and specially designed components and accessories therefor.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to entire entry, except 1B001.d.4 and .f.	MT Column 1
NP applies to filament winding machines described in 1B001.a that are capable of winding cylindrical rotors having a diameter between 75 mm (3 in) and 400 mm (16 in) and lengths of 600 mm (24 in) or greater; and coordinating and programming controls and precision mandrels for these filament winding machines.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A for MT and for 1B001.a; $5,000 for all other items
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 1B101 and 1B201; and for accelerators and systems containing accelerators see 3A101
Related Definitions: N/A
Items: a. Filament winding machines of which the motions for positioning, wrapping and winding fibers are coordinated and programmed in three or more axes, specially designed for the manufacture of ''composite'' structures or laminates from ''fibrous or filamentary materials'';

b. Tape-laying or tow-placement machines of which the motions for positioning and laying tape, tows or sheets are coordinated and programmed in two or more axes, specially designed for the manufacture of ''composite'' airframe or ''missile'' structures;

c. Multidirectional, multidimensional weaving machines or interlacing machines, including adapters and modification kits, for weaving, interlacing or braiding fibers to manufacture ''composite'' structures;

Note: 1B001.c does not control textile machinery not modified for the above end-uses.

d. Equipment specially designed or adapted for the production of reinforcement fibers, as follows:

d.1. Equipment for converting polymeric fibers (such as polyacrylonitrile, rayon, pitch or polycarbosilane) into carbon fibers or silicon carbide fibers, including special equipment to strain the fiber during heating;

d.2. Equipment for the chemical vapor deposition of elements or compounds on heated filamentary substrates to manufacture silicon carbide fibers;

d.3. Equipment for the wet-spinning of refractory ceramics (such as aluminum oxide);

d.4. Equipment for converting aluminum containing precursor fibers into alumina fibers by heat treatment;

e. Equipment for producing prepregs controlled by 1C010.e by the hot melt method;

f. Non-destructive inspection equipment capable of inspecting defects three dimensionally, using ultrasonic or X-ray tomography and specially designed for ''composite'' materials.

1B002 Systems and components therefor, specially designed to avoid contamination and specially designed for producing metal alloys, metal alloy powder or alloyed materials controlled by 1C002.a.2, 1C002.b or 1C002.c.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1B003 Tools, dies, molds or fixtures, for ''superplastic forming'' or ''diffusion bonding'' titanium or aluminum or their alloys, specially designed for the manufacture of (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value
Related Controls: For specially designed production equipment of systems, subsystems and components controlled by 9A005 to 9A009, 9A011, 9A101, 9A105 to 9A109, 9A111, and 9A116 to 9A120 usable in ''missiles'', see 9B115.
Related Definitions: N/A
Items: a. Airframe or aerospace structures; b. ''Aircraft'' or aerospace engines; *or*

c. Specially designed components for those structures or engines.

1B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to equipment for the ''production'' of rocket propellants.	MT Column 1
RS applies to 1B018.a	RS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000 for 1B018.a for countries WITHOUT an ''X'' in RS; Column 2 on the Country Chart contained in Supplement No. 1 to part 738 of the EAR; $5000 for 1B018.b
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Equipment for the ''production'' of military explosives and solid propellants.

a.1. Complete installations;

a.2. Specialized components (for example, dehydration presses; extrusion presses for the extrusion of small arms, cannon and rocket propellants; cutting machines for the sizing of extruded propellants; sweetie barrels (tumblers) 6 feet and over in diameter and having over 500 pounds product capacity; and continuous mixers for solid propellants); or

a.3. Nitrators, continuous types; and

a.4. Specially designed parts and accessories therefor.

b. Environmental chambers capable of pressures below (10^{-4}) Torr, and specially designed components therefor.

1B101 Equipment, other than that controlled by 1B001, for the ''production'' of structural composites, and specially designed components and accessories therefor.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to 1B101.a only.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 1B201
Related Definitions: Components and accessories controlled by this entry include molds, mandrels, dies, fixtures and tooling for the preform processing, curing, casting, sintering or bonding of composite structures, laminates and manufactures thereof
Items: a. Filament winding machines of which the motions for positioning, wrapping and winding fibers can be coordinated and programmed in three or more axes, designed to fabricate composite structures or laminates from fibrous or filamentary materials, and coordinating and programming controls;

b. Tape-laying machines of which the motions for positioning and laying tape and sheets can be coordinated and programmed in two or more axes, designed for the manufacture of composite airframe and ''missile'' structures;

c. Equipment designed or modified for the ''production'' of ''fibrous or filamentary materials'' as follows:

c.1. Equipment for converting polymeric fibers (such as polyacrylonitrile, rayon or polycarbosilane) including special provision to strain the fiber during heating;

c.2. Equipment for the vapor deposition of elements or compounds on heated filament substrates; and

c.3. Equipment for the wet-spinning of refractory ceramics (such as aluminum oxide);

d. Equipment designed or modified for special fiber surface treatment or for producing prepregs and preforms controlled by 9A110.

Note: Equipment covered in 1B101.d includes but is not limited to, rollers, tension stretchers, coating equipment, cutting equipment and clicker dies.

1B115 Equipment for the ''production'', handling and acceptance testing of propellants or propellant constituents controlled by 1C011, 1C111 or on the U.S. Munitions List, and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value
Related Controls: (1) The only batch or continuous mixers controlled by this entry are those which have provision for mixing under vacuum in the range of zero to 13.326 kPa and with a temperature control capacity of the mixing chamber: (a) Batch mixers having a total volumetric capacity of 110 liters or more and at least one mixing/kneeding shaft mounted off center; (b) Continuous mixers having two or more mixing/kneeding shafts and capability to open the mixing chamber. (2) For equipment specially designed for the production of military propellants or propellant consistuents, see the U.S. Munitions List. (3) This entry does control equipment for the ''production'', handling and acceptance testing of boron carbide
Related Definitions: N/A.
Items: The list of items controlled is contained in the ECCN heading

1B116 Specially designed nozzles for producing pyrolitically derived materials formed on a mold, mandrel or other substrate from precursor gases which decompose in the 1,573 K (1,300 °C) to 3,173 K (2,900 °C) temperature range at pressures of 130 Pa to 20 kPa.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1B201 Filament winding machines, other than those controlled by 1B001 or 1B101, in which the motions for positioning, wrapping, and winding fibers are coordinated and programmed in two or more axes, specially designed to fabricate composite structures or laminates from ''fibrous or filamentary materials'' and capable of winding cylindrical rotors of diameter between 75 mm and 400 mm and lengths of 600 mm or greater and coordinating and programming controls and precision mandrels therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1B225 Electrolytic cells for fluorine production with a production capacity greater than 250 g of fluorine per hour.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1B226 Electromagnetic isotope separators, designed for or equipped with, single or multiple ion sources capable of providing a total ion beam current of 50 mA or greater.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry includes separators capable of enriching stable isotopes and separators with the ion sources and collections both in the magnetic field and those configurations in which they are external to the field
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1B227 Ammonia synthesis converters or ammonia synthesis units in which the synthesis gas (nitrogen and hydrogen) is withdrawn from an ammonia/hydrogen high-pressure exchange column and the synthesized ammonia is returned to that column.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

1B228 Hydrogen-cryogenic distillation columns having all of the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Heavy water production equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: ''Fine-grain stainless steels'' in this entry are defined to be fine-grain austenitic stainless steels with an ASTM (or equivalent standard) grain size number of 5 or greater
Items: a. Designed to operate with internal temperatures of 35 K (−238 °C) or less;
b. Designed to operate at an internal pressure of 0.5 to 5 MPa (5 to 50 atmospheres);
c. Constructed of ''fine-grain stainless steels'' of the 300 series with low sulphur content or equivalent cryogenic and H_2-compatible materials; *and*
d. With internal diameters of 1 m or greater and effective lengths of 5 m or greater.

1B229 Water-hydrogen sulphide exchange tray columns constructed from fine carbon steel with a diameter of 1.8 m or greater, which can operate at a nominal pressure of 2 MPa or greater, and internal contactors therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) See 0B004 for columns which are specially designed or prepared for the production of heavy water. These items are controlled on the NSG Trigger List (INFCIRC/254/part (2) See 10 CFR part 110 for heavy water production equipment subject to the export licensing authority of the Nuclear Regulatory Commission
Related Definition: (1) This entry includes internal contactors of the columns are segmented trays with an effective assembled diameter of 1.8 m (6 ft.) or greater, are designed to facilitate countercurrent contacting and constructed of materials resistant to corrosion by hydrogen sulfide/water mixtures. These may be sieve trays, valve trays, bubble cap trays or turbogrid trays. (2) Fine carbon steel in this entry is defined to be steel with the austenitic ASTM (or equivalent standard) grain size number of 5 or greater. (3) Materials resistant to corrosion by hydrogen sulfide/water mixtures in this entry are defined to be stainless steels with a carbon content of 0.03% or less
Items: The list of items controlled is contained in the ECCN heading

1B230 Pumps circulating solutions of diluted or concentrated potassium amide catalyst in liquid ammonia (KNH_2/NH_3), with all of the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Heavy water production equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: a. Airtight (i.e., hermetically sealed);
b. For concentrated potassium amide solutions (1% or greater), operating pressure of 1.5–60 MPa (15–600 atmospheres); for dilute potassium amide solutions (less than 1%), operating pressure of 20–60 MPa (200–600 atmospheres); *and*
c. A capacity greater than 8.5 m^3/hr.

1B231 Tritium facilities, plant or equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control tritium, tritium compounds, and mixtures containing tritium, or products or devices thereof. See 10 CFR part 110 for tritium subject to the export licensing authority of the Nuclear Regulatory Commission
Related Definitions: N/A
Items: a. Facilities or plant for the production, recovery, extraction, concentration, or handling of tritium;
b. Equipment for tritium facilities or plant, as follows:
b.1. Hydrogen or helium refrigeration units capable of cooling to 23 K (−250 C) or less, with heat removal capacity greater than 150 watts; *or*
b.2. Hydrogen isotope storage and purification systems using metal hydrides as the storage, or purification medium.

1B232 Turboexpanders or turboexpander-compressor sets designed for operation below 35 K (−238° C) and a throughput of hydrogen gas of 1000 kg/hr or greater.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1B233 Lithium isotope separation facilities, plant or equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control:
Control(s): Items described in 1B233 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Facilities or plant for the separation of lithium isotopes;

b. Equipment for the separation of lithium isotopes, as follows:

b.1. Packed liquid-liquid exchange columns specially designed for lithium amalgams;

b.2. Mercury and/or lithium amalgam pumps;

b.3. Lithium amalgam electrolysis cells;

b.4. Evaporators for concentrated lithium hydroxide solution.

C. Materials

Technical Note: Metals and alloys: Unless provision to the contrary is made, the words ''metals'' and ''alloys'' in 1C001 to 1C012 cover crude and semi-fabricated forms, as follows:

Crude forms: Anodes, balls, bars (including notched bars and wire bars), billets, blocks, blooms, brickets, cakes, cathodes, crystals, cubes, dice, grains, granules, ingots, lumps, pellets, pigs, powder, rondelles, shot, slabs, slugs, sponge, sticks;

Semi-fabricated forms (whether or not coated, plated, drilled or punched):

a. Wrought or worked materials fabricated by rolling, drawing, extruding, forging, impact extruding, pressing, graining, atomizing, and grinding, i.e.: angles, channels, circles, discs, dust, flakes, foils and leaf, forging, plate, powder, pressings and stampings, ribbons, rings, rods (including bare welding rods, wire rods, and rolled wire), sections, shapes, sheets, strip, pipe and tubes (including tube rounds, squares, and hollows), drawn or extruded wire;

b. Cast material produced by casting in sand, die, metal, plaster or other types of molds, including high pressure castings, sintered forms, and forms made by powder metallurgy.

The object of the control should not be defeated by the export of non-listed forms alleged to be finished products but representing in reality crude forms or semi-fabricated forms.

1C001 Materials specially designed for use as absorbers of electromagnetic waves, or intrinsically conductive polymers, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See also 1C101
Related Definitions: N/A
Items: a. Materials for absorbing frequencies exceeding 2×10^{8} Hz but less than 3×10^{12} Hz.

Notes: 1. 1C001.a does not control:

a. Hair type absorbers, constructed of natural or synthetic fibers, with non-magnetic loading to provide absorption;

b. Absorbers having no magnetic loss and whose incident surface is non-planar in shape, including pyramids, cones, wedges and convoluted surfaces;

c. Planar absorbers, having all of the following characteristics:

1. Made from any of the following:

a. Plastic foam materials (flexible or non-flexible) with carbon-loading, or organic materials, including binders, providing more than 5% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 450 K (177° C); *or*

b. Ceramic materials providing more than 20% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 800 K (527° C);

Technical Note: Absorption test samples for 1C001.a. Note 1.c.1 should be a square at least 5 wavelengths of the center frequency on a side and positioned in the far field of the radiating element.

2. Tensile strength less than 7×10^{6} N/m^{2}; *and*

3. Compressive strength less than 14×10^{6} N/m^{2};

d. Planar absorbers made of sintered ferrite, having:

1. A specific gravity exceeding 4.4; *and*

2. A maximum operating temperature of 548 K (275° C).

Note 2: Nothing in 1C001.a releases magnetic materials to provide absorption when contained in paint.

b. Materials for absorbing frequencies exceeding 1.5×10^{14} Hz but less than 3.7×10^{14} Hz and not transparent to visible light;

c. Intrinsically conductive polymeric materials with a bulk electrical conductivity exceeding 10,000 S/m (Siemens per meter) or a sheet (surface) resistivity of less than 100 ohms/square, based on any of the following polymers:

c.1. Polyaniline;

c.2. Polypyrrole;

c.3. Polythiophene;

c.4. Poly phenylene-vinylene; *or*

c.5. Poly thienylene-vinylene.

Technical Note: Bulk electrical conductivity and sheet (surface) resistivity should be determined using ASTM D–257 or national equivalents.

1C002 Metal alloys, metal alloy powder and alloyed materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to 1C002.a.2.c or a.2.d if they exceed the parameters stated in 1C202.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See also 1C202. This entry does not control metal alloys, metal alloy powder or alloyed materials for coating substrates
Related Definition: N/A
Items: a. Metal alloys, as follows:

a.1. Nickel or titanium-based alloys in the form of aluminides, as follows, in crude or semi-fabricated forms:

a.1.a. Nickel aluminides containing a minimum of 15 weight percent aluminum, a maximum of 38 weight percent aluminum and at least one additional alloying element;

a.1.b. Titanium aluminides containing 10 weight percent or more aluminum and at least one additional alloying element;

a. 2. Metal alloys, as follows, made from metal alloy powder or particulate material controlled by 1C002.b:

a.2.a. Nickel alloys with:

a.2.a.1. A stress-rupture life of 10,000 hours or longer at 923 K (650° C) at a stress of 676 MPa; *or*

a.2.a.2. A low cycle fatigue life of 10,000 cycles or more at 823 K (550° C) at a maximum stress of 1,095 MPa;

a.2.b. Niobium alloys with:

a.2.b.1. A stress-rupture life of 10,000 hours or longer at 1,073 K (800° C) at a stress of 400 MPa; *or*

a.2.b.2. A low cycle fatigue life of 10,000 cycles or more at 973 K (700° C) at a maximum stress of 700 MPa;

a.2.c. Titanium alloys with:

a.2.c.1. A stress-rupture life of 10,000 hours or longer at 723 K (450° C) at a stress of 200 MPa; *or*

a.2.c.2. A low cycle fatigue life of 10,000 cycles or more at 723 K (450° C) at a maximum stress of 400 MPa;

a.2.d. Aluminum alloys with a tensile strength of:

a.2.d.1. 240 MPa or more at 473 K (200° C); *or*

a.2.d.2. 415 MPa or more at 298 K (25° C);

a.2.e. Magnesium alloys with a tensile strength of 345 MPa or more and a corrosion rate of less than 1 mm/year in 3% sodium chloride aqueous solution measured in accordance with ASTM standard G–31 or national equivalents;

Technical Note 1: The metal alloys in 1C002.a are those containing a higher percentage by weight of the stated metal than of any other element.

Technical Note 2: Stress-rupture life should be measured in accordance with ASTM standard E–139 or national equivalents.

Technical Note 3: Low cycle fatigue life should be measured in accordance with ASTM Standard E–606 ''Recommended Practice for Constant-Amplitude Low-Cycle Fatigue Testing'' or national equivalents. Testing should be axial with an average stress ratio equal to 1 and a stress-concentration factor (K_t) equal to 1. The average stress is defined as maximum stress minus minimum stress divided by maximum stress.

b. Metal alloy powder or particulate material for materials controlled by 1C002.a, as follows:

b.1. Made from any of the following composition systems:

Technical Note: X in the following equals one or more alloying elements.

b.1.a. Nickel alloys (Ni-Al-X, Ni-X-Al) qualified for turbine engine parts or components, i.e. with less than 3 non-metallic particles (introduced during the manufacturing process) larger than 100 μm in 10^9 alloy particles;

b.1.b. Niobium alloys (Nb-Al-X or Nb-X-Al, Nb-Si-X or Nb-X-Si, Nb-Ti-X or Nb-X-Ti);

b.1.c. Titanium alloys (Ti-Al-X or Ti-X-Al);

b.1.d. Aluminum alloys (Al-Mg-X or Al-X-Mg, Al-Zn-X or Al-X-Zn, Al-Fe-X or Al-X-Fe); *or*

b.1.e. Magnesium alloys (Mg-Al-X or Mg-X-Al); *and*

b.2. Made in a controlled environment by any of the following processes:

b.2.a. ''Vacuum atomization'';

b.2.b. ''Gas atomization'';

b.2.c. ''Rotary atomization'';

b.2.d. ''Splat quenching'';

b.2.e. ''Melt spinning'' and ''comminution'';

b.2.f. ''Melt extraction'' and ''comminution''; *or*

b.2.g. ''Mechanical alloying'';

c. Alloyed materials, in the form of uncomminuted flakes, ribbons or thin rods produced in a controlled environment by ''splat quenching'', ''melt spinning'' or ''melt extraction'', used in the manufacture of metal alloy powder or particulate material controlled by 1C002.b.

1C003 Magnetic metals, of all types and of whatever form, having any of the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. Initial relative permeability of 120,000 or more and a thickness of 0.05 mm or less;

Technical Note: Measurement of initial permeability must be performed on fully annealed materials.

b. Magnetostrictive alloys, having any of the following characteristics:

b.1. A saturation magnetostriction of more than 5×10^{-4}; *or*

b.2. A magnetomechanical coupling factor (k) of more than 0.8; *or*

c. Amorphous or nanocrystalline alloy strips, having all of the following characteristics:

c.1. A composition having a minimum of 75 weight percent of iron, cobalt or nickel;

c.2. A saturation magnetic induction (B_s) of 1.6 T or more; *and*

c.3. Any of the following:

c.3.a. A strip thickness of 0.02 mm or less; *or*

c.3.b. An electrical resistivity of 2×10^{-4}; ohm cm or more.

Technical Note: Nanocrystalline materials in 1C003.c are those materials having a crystal grain size of 50 nm or less, as determined by X-ray diffraction.

1C004 Uranium titanium alloys or tungsten alloys with a ''matrix'' based on iron, nickel or copper, having all of the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. A density exceeding 17.5 g/cm^3;

b. An elastic limit exceeding 1,250 MPa;

c. An ultimate tensile strength exceeding 1,270 Mpa; *and*

d. An elongation exceeding 8%.

1C005 ''Superconductive'' ''composite'' conductors in lengths exceeding 100 m or with a mass exceeding 100 g, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. Multifilamentary ''superconductive'' ''composite'' conductors containing one or more niobium-titanium filaments:

a.1. Embedded in a ''matrix'' other than a copper or copper-based mixed ''matrix''; *or*

a.2. Having a cross-section area less than 0.28×10^{-4} mm^2 (6 μm in diameter for circular filaments);

b. ''Superconductive'' ''composite'' conductors consisting of one or more ''superconductive'' filaments other than niobium-titanium, having all of the following:

b.1. A ''critical temperature'' at zero magnetic induction exceeding 9.85 K (−263.31° C) but less than 24 K (−249.16° C);

b.2. A cross-section area less than 0.28×10^{-4} mm^2; *and*

b.3. Remaining in the ''superconductive'' state at a temperature of 4.2 K (−268.96° C) when exposed to a magnetic field corresponding to a magnetic induction of 12 T.

1C006 Fluids and lubricating materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Barrels (55 U.S. gallons/ 209 liters)
Related Controls: N/A
Related Definitions: N/A
Items: a. Hydraulic fluids containing, as their principal ingredients, any of the following compounds or materials:

a.1. Synthetic hydrocarbon oils or silahydrocarbon oils, having all of the following:

Note: For the purpose of 1C006.a.1, silahydrocarbon oils contain exclusively silicon, hydrogen and carbon.

a.1.a. A flash point exceeding 477 K (204° C);

a.1.b. A pour point at 239 K (−34° C) or less;

a.1.c. A viscosity index of 75 or more; *and*

a.1.d. A thermal stability at 616 K (343° C); *or*

a.2. Chlorofluorocarbons, having all of the following:

Note: For the purpose of 1C006.a.2, chlorofluorocarbons contain exclusively carbon, fluorine and chlorine.

a.2.a. No flash point;

a.2.b. An autogenous ignition temperature exceeding 977 K (704° C);

a.2.c. A pour point at 219 K (−54° C) or less;

a.2.d. A viscosity index of 80 or more; *and*

a.2.e. A boiling point at 473 K (200° C) or higher;

b. Lubricating materials containing, as their principal ingredients, any of the following compounds or materials:

b.1. Phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than two ether or thio-ether functions or mixtures thereof; *or*

b.2. Fluorinated silicone fluids with a kinematic viscosity of less than 5,000 mm^2/s (5,000 centistokes) measured at 298 K (25° C);

c. Damping or flotation fluids with a purity exceeding 99.8%, containing less than 25 particles of 200 µm or larger in size per 100 ml and made from at least 85% of any of the following compounds or materials:

c.1. Dibromotetrafluoroethane;

c.2. Polychlorotrifluoroethylene (oily and waxy modifications only); *or*

c.3. Polybromotrifluoroethylene;

d. Fluorocarbon electronic cooling fluids, having all of the following characteristics:

d.1. Containing 85% by weight or more of any of the following, or mixtures thereof:

d.1.a. Monomeric forms of perfluoropolyalkylether-triazines or perfluoroaliphatic-ethers;

d.1.b. Perfluoroalkylamines;

d.1.c. Perfluorocycloalkanes; *or*

d.1.d. Perfluoroalkanes;

d.2. Density at 298 K (25° C) of 1.5 g/ml or more;

d.3. In a liquid state at 273 K (0° C); *and*

d.4. Containing 60% or more by weight of fluorine.

Technical Note: For the purpose of 1C006:

a. Flash point is determined using the Cleveland Open Cup Method described in ASTM D–92 or national equivalents;

b. Pour point is determined using the method described in ASTM D–97 or national equivalents;

c. Viscosity index is determined using the method described in ASTM D–2270 or national equivalents;

d. Thermal stability is determined by the following test procedure or national equivalents:

Twenty ml of the fluid under test is placed in a 46 ml type 317 stainless steel chamber containing one each of 12.5 mm (nominal) diameter balls of M–10 tool steel, 52100 steel and naval bronze (60% Cu, 39% Zn, 0.75% Sn);

The chamber is purged with nitrogen, sealed at atmospheric pressure and the temperature raised to and maintained at 644 ± 6 K (371 ± 6° C) for six hours;

The specimen will be considered thermally stable if, on completion of the above procedure, all of the following conditions are met:

1. The loss in weight of each ball is less than 10 mg/mm2 of ball surface;

2. The change in original viscosity as determined at 311 K (38° C) is less than 25%; *and*

3. The total acid or base number is less than 0.40;

e. Autogenous ignition temperature is determined using the method described in ASTM E–659 or national equivalents.

1C007 Ceramic base materials, non-''composite'' ceramic materials, ceramic-''matrix'' ''composite'' materials and precursor materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2.
MT applies to items in 1C007.d and .f when the dielectric constant is less than 6 at frequencies from 100 Hz to 10,000 MHz for use in missile radomes.	MT Column 1.
AT applies to entire entry	AT Column 1.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000, except N/A for MT and for 1C007.e

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: Kilograms

Related Controls: See also 1C107

Related Definitions: N/A

Items: a. Base materials of single or complex borides of titanium having total metallic impurities, excluding intentional additions, of less than 5,000 ppm, an average particle size equal to or less than 5 µm and no more than 10% of the particles larger than 10 µm;

b. Non-''composite'' ceramic materials in crude or semi-fabricated form, composed of borides of titanium with a density of 98% or more of the theoretical density;

Note: 1C007.b does not control abrasives.

c. Ceramic-ceramic ''composite'' materials with a glass or oxide-''matrix'' and reinforced with fibers made from any of the following systems:

c.1. Si-N;

c.2. Si-C;

c.3. Si-Al-O-N; *or*

c.4. Si-O-N; having a ''specific tensile strength'' exceeding 12.7 x 10^3 m;

d. Ceramic-ceramic ''composite'' materials, with or without a continuous metallic phase, incorporating particles, whiskers or fibers, where carbides or nitrides of silicon, zirconium or boron form the ''matrix'';

e. Precursor materials (i.e., special purpose polymeric or metallo-organic materials) for producing any phase or phases of the materials controlled by 1C007.c, as follows:

e.1. Polydiorganosilanes (for producing silicon carbide);

e.2. Polysilazanes (for producing silicon nitride);

e.3. Polycarbosilazanes (for producing ceramics with silicon, carbon and nitrogen components);

f. Ceramic-ceramic ''composite'' materials with an oxide or glass ''matrix'' reinforced with continuous fibers from any of the following systems:

f.1. Al_2O_3; *or*

f.2. Si-C-N.

Note: 1C007.f does not control ''composites'' containing fibers from these systems with a fiber tensile strength of less than 700 MPa at 1,273 K (1,000° C) or fiber tensile creep resistance of more than 1% creep strain at 100 MPa load and 1,273 K (1,000° C) for 100 hours.

1C008 Non-fluorinated polymeric substances, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $200

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: Kilograms

Related Controls: N/A

Related Definitions: N/A

Items: a. Non-fluorinated polymeric substances, as follows:

a.1. Bismaleimides;

a.2. Aromatic polyamide-imides;

a.3. Aromatic polyimides;

a.4. Aromatic polyetherimides having a glass transition temperature (T_g) exceeding 513 K (240° C) determined using the dry method described in ASTM D 3418;

Note: 1C008.a does not control non-fusible compression molding powders or molded forms.

b. Thermoplastic liquid crystal copolymers having a heat distortion temperature exceeding 523 K (250° C) measured according to ASTM D–648, method A, or national equivalents, with a load of 1.82 N/mm^2 and composed of:

b.1. Any of the following:

b.1.a. Phenylene, biphenylene or naphthalene; or

b.1.b. Methyl, tertiary-butyl or phenyl substituted phenylene, biphenylene or naphthalene; *and*

b.2. Any of the following acids:

b.2.a. Terephthalic acid;

b.2.b. 6-hydroxy-2 naphthoic acid; *or*

b.2.c. 4-hydroxybenzoic acid;

c. Polyarylene ether ketones, as follows:

c.1. Polyether ether ketone (PEEK)

c.2. Polyether ketone ketone (PEKK);

c.3. Polyether ketone (PEK);

c.4. Polyether ketone ether ketone ketone (PEKEKK);

d. Polyarylene ketones;

e. Polyarylene sulphides, where the arylene group is biphenylene, triphenylene or combinations thereof;

f. Polybiphenylenethersulphone.

Technical Note: The glass transition temperature (T_g) for 1C008 materials is determined using the method described in ASTM D 3418 using the dry method.

1C009 Unprocessed fluorinated compounds, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. Copolymers of vinylidene fluoride having 75% or more beta crystalline structure without stretching;

b. Fluorinated polyimides containing 10% by weight or more of combined fluorine;

c. Fluorinated phosphazene elastomers containing 30% by weight or more of combined fluorine.

1C010 ''Fibrous or filamentary materials'' which may be used in organic ''matrix'', metallic ''matrix'' or carbon ''matrix'' ''composite'' structures or laminates, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to 1C010.a (aramid ''fibrous or filamentary materials'', .b (carbon ''fibrous and filamentary materials''), and e.1 for ''fibrous and filamentary materials'' that meet or exceed the control criteria of ECCN 1C210.	NP Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $1500, N/A for NP
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See also 1C210, 1C990, and 9A110 for material not controlled by 1C010.e, as defined by technical notes 1 or 2. Note that some items in 1C010.e are also controlled under 9A110
Related Definitions: (1) Specific modulus: Young's modulus in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23+2) C) and a relative humidity of (50±5)%. (2) Specific tensile strength: ultimate tensile strength in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2) C) and a relative humidity of (50±5)%
Items: a. Organic ''fibrous or filamentary materials'', having all of the following:

a.1. A specific modulus exceeding 12.7 x 10^6 m; *and*

a.2. A specific tensile strength exceeding 23.5 x 10^4 m;

Note: 1C010.a does not control polyethylene.

b. Carbon ''fibrous or filamentary materials'', having all of the following:

b.1. A specific modulus exceeding 12.7 x 10^6 m; *and*

b.2. A specific tensile strength exceeding 23.5 x 10^4 m;

Technical Note: Properties for materials described in 1C010.b should be determined using SACMA recommended methods SRM 12 to 17, or national equivalent tow tests, such as Japanese Industrial Standard JIS–R–7601, Paragraph 6.6.2, and based on lot average.

Note: 1C010.b does not control fabric made from ''fibrous or filamentary materials'' for the repair of aircraft structures or laminates, in which the size of individual sheets does not exceed 50 cm x 90 cm.

c. Inorganic ''fibrous or filamentary materials'', having all of the following:

c.1. A specific modulus exceeding 2.54 x 10^6 m; and

c.2. A melting, softening, decomposition or sublimation point exceeding 1,922 K (1,649 °C) in an inert environment;

Note: 1C010.c does not control:

1. Discontinuous, multiphase, polycrystalline alumina fibers in chopped fiber or random mat form, containing 3 weight percent or more silica, with a specific modulus of less than 10×10^6 m;

2. Molybdenum and molybdenum alloy fibers;

3. Boron fibers;

4. Discontinuous ceramic fibers with a melting, softening, decomposition or sublimation point lower than 2,043 K (1,770 °C) in an inert environment.

d. ''Fibrous or filamentary materials'':

d.1. Composed of any of the following:

d.1.a. Polyetherimides controlled by 1C008.a; *or*

d.1.b. Materials controlled by 1C008.b to 1C008.f; *or*

d.2. Composed of materials controlled by 1C010.d.1.a or 1C010.d.1.b and ''commingled'' with other fibers controlled by 1C010.a, 1C010.b or 1C010.c;

e. Resin-impregnated or pitch-impregnated fibers (prepregs), metal or carbon-coated fibers (preforms) or ''carbon fiber preforms'', as follows:

e.1. Made from ''fibrous or filamentary materials'' controlled by 1C010.a, 1C010.b or 1C010.c;

e.2. Made from organic or carbon ''fibrous or filamentary materials'':

e.2.a. With a ''specific tensile strength'' exceeding 17.7x10^4 m;

e.2.b. With a ''specific modulus'' exceeding 10.15×10^6 m;

e.2.c. Not controlled by 1C010.a or 1C010.b; *and*

e.2.d. When impregnated with materials controlled by 1C008 or 1C009.b, having a glass transition temperature (T_g) exceeding 383 K (110 °C) or with phenolic or epoxy resins, having a glass transition temperature (T_g) equal to or exceeding 418 K (145 °C).

Notes: 1C010.e does not control:

1. Epoxy resin ''matrix'' impregnated carbon ''fibrous or filamentary materials'' (prepregs) for the repair of aircraft structures or laminates, in which the size of individual sheets of prepreg does not exceed 50 cm × 90 cm;

2. Prepregs when impregnated with phenolic or epoxy resins having a glass transition temperature (T_g) less than 433 K (160 °C) and a cure temperature lower than the glass transition temperature.

Technical Note: The glass transition temperature (T_g) for 1C010.e materials is determined using the method described in ASTM D 3418 using the dry method. The glass transition temperature for phenolic and epoxy resins is determined using the method described in ASTM D 4065 at a frequency of 1 Hz and a heating rate of 2 K per minute using the dry method.

1C011 Metals and compounds, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to 1C011.a and .b.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 1C111. (2) Items controlled by 1C011.a, and metal fuels in particle form, whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99 percent or more of items controlled by 1C011.b. are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121)
Related Definitions: N/A
Items: a. Metals in particle sizes of less than 60 µm whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of zirconium, magnesium and alloys of these;

N.B.: The metals or alloys listed in 1C011.a are controlled whether or not the metals or alloys are encapsulated in aluminum, magnesium, zirconium or beryllium.

b. Boron or boron carbide of 85% purity or higher and a particle size of 60 µm or less;

N.B.: The metals or alloys listed in 1C011.b are controlled whether or not the metals or alloys are encapsulated in aluminum, magnesium, zirconium or beryllium.

c. Guanidine nitrate.

1C012 Materials for nuclear heat sources, as follows (see List of Items Controlled).

License Requirements

Reason for Control:

Control(s): Items described in 1C012 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Plutonium in any form with a plutonium isotopic assay of plutonium-238 of more than 50% by weight;

Note: 1C012.a does not control:

1. Shipments with a plutonium content of 1 g or less;

2. Shipments of 3 effective grams or less when contained in a sensing component in instruments.

b. Previously separated neptunium-237 in any form.

Note: 1C012.b does not control shipments with a neptunium-237 content of 1 g or less.

1C018 Materials on the International Munitions List.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: Yes for items listed in Advisory Note to 1C018
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. Ethyl and Methyl centralites.

b. NN-Diphenylurea (unsymmetrical diphenylurea).

c. Methyl-NN-diphenylurea (methyl unsymmetrical diphenylurea).

d. Ethyl-NN-diphenylurea (ethyl unsymmetrical diphenylurea).

e. Ethyl phenyl urethane.

f. Diphenyl urethane.

g. Diortho tolyl-urethane.

h. 2-Nitrodiphenylamine.

i. p-Nitromethylaniline.

j. 2,2′ Dinitropropanol.

k. Bis(2,2′ dinitropropyl) formal and acetal.

l. 3-Nitraza-1,5 pentane diisocyanate.

m. Guanidine nitrate.

n. Hydrogen peroxide in concentrations of 85%.

o. Charges specially designed for civilian applications, containing military explosives, except those items described in 1C992.

Technical Note: Military high explosives are solid, liquid or gaseous substances or mixtures of substances that, in their application as primary, booster, or main charges in warheads, demolition and other military applications, are required to detonate.

Advisory Note: Licenses are likely to be approved for export and reexport to satisfactory end-users in Country Group D:1 of certain explosive substances and mixtures in reasonable quantities for civilian or industrial purposes when made into cartridges or charges of an exclusively civilian or industrial nature, such as propellants for sporting purposes or shooting gallery practice; cartridges for riveting guns; and explosive charges for agricultural purposes, public works, mines, quarries or oil-well drilling. The following are the substances or mixtures to which this procedure applies:

a. Nitrate-based (40 percent or more) and provided they do not contain more than 40 percent nitroglycol/nitroglycerin or no more than 16 percent TNT;

b. Nitrocellulose with a nitrogen content of over 12.2 percent;

c. Nitroglycerin;

d. Single base nitrocellulose;

e. Sodium azide and other inorganic azides.

1C101 Materials and devices for reduced observables such as radar reflectivity, ultraviolet/infrared signatures and acoustic signatures, other than those controlled by 1C001, usable in ''missiles'' and their subsystems.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: Materials controlled by this entry include: (a) structural materials and coatings specially designed for reduced radar reflectivity; (b) coatings, including paints, specially designed for reduced or tailored reflectivity or emissivity in the microwave, infrared or ultraviolet spectra. This entry does not control coatings when specially used for the thermal control of satellites.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C107 Graphite and ceramic materials, other than those controlled by 1C007, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT.

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. Fine grain recrystallized bulk graphites having a bulk density of 1.72 g/cm^3 or greater, measured at 288 K (15° C), and having a particle size of 100 micrometers or less, pyrolytic or fibrous reinforced graphites, usable for rocket nozzles and reentry vehicle nose tips;

b. Ceramic composite materials (dielectric constant less than 6 at frequencies from 100 Hz to 10,000 MHz), also usable for ''missile'' radomes, and bulk machinable silicon-carbide reinforced unfired ceramic, usable for nose tips.

1C111 Propellants and constituent chemicals for propellants, other than those controlled by 1C011, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: The following materials, whether or not encapsulated in aluminum, beryllium, magnesium, or zirconium are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls: (See 22 CFR part 121): (a) Spherical aluminum powder with particles of uniform diameter 60×10^{-6} m (60 micrometers) or less and an aluminum content of 97 percent or greater; (b) Metals in particle sizes less than 60×10^{-6} m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99 percent or more of: boron; magnesium; zirconium; alloys of boron, magnesium or zirconium; beryllium; or iron powder with average particle size of 3×10^{-6} m (3 microns) or less produced by hydrogen reduction of iron oxide.
Related Definitions: N/A
Items: a. Propulsive substances:

a.1. Spherical aluminum powder, other than that specified on the U.S. Munitions List, with particles of uniform diameter of less than 500 micrometer and an aluminum content of 97% by weight or greater;

a.2. Metals, other than that controlled by the U.S. Munitions List, in particle sizes of less than 500 micrometers, whether spherical, atomized, spheroidal, flaked or

ground, consisting 97% or more by weight of any of the following:

a.2.a. Zirconium;

a.2.b. Beryllium;

a.2.c. Boron;

a.2.d. Magnesium; *or*

a.2.e. Alloys of the metals specified by a.2.a to a.2.d above;

a.3. Liquid oxidizers, the following:

a.3.a. Dinitrogen trioxide;

a.3.b. Nitrogen dioxide/dinitrogen tetroxide;

a.3.c. Dinitrogen pentoxide;

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (CTPB);

b.2. Hydroxy-terminated polybutadiene (HTPB), other than that controlled by the U.S. Munitions List;

b.3. Polybutadiene-acrylic acid (PBAA);

b.4. Polybutadiene-acrylic acid-acrylonitrile (PBAN);

c. Other propellant additives and agents:

c.1. Butacene;

c.2. Triethylene glycol dinitrate (TEGDN);

c.3. 2-Nitrodiphenylamine;

c.4. Trimethylolethane trinitrate (TMETN);

c.5. Diethylene glycol dinitrate (DEGDN).

Note: For propellants and constituent chemicals for propellants not controlled by 1C111, see the U.S. Munitions List.

1C116 Maraging steels (steels generally characterized by high nickel, very low carbon content and the use of substitutional elements or precipitates to produce age-hardening) having an ultimate tensile strength of 1,500 MPa or greater, measured at 293 K (20° C), in the form of sheet, plate or tubing with a wall or plate thickness equal to or less than 5 mm.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to items that meet or exceed the parameters of 1C216.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 1C216
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C117 Tungsten, molybdenum and alloys of these metals in the form of uniform, spherical or atomized particles of 500 micrometer diameter or less with a purity of 97% or greater for fabrication of rocket motor components, i.e., heat shields, nozzle substrates, nozzle throats and thrust vector control surfaces.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C202 Alloys, other than those controlled by 1C002.a.2.c or .d, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: The phrase ''alloys capable of'' encompasses before and after heat treatment.
Items: a. Aluminum ''alloys capable of'' an ultimate tensile strength of 460 Mpa or more at 293 K (20° C), in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm;

b. Titanium ''alloys capable of'' an ultimate tensile strength of 900 MPa or more at 293 K (20° C) in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm.

1C210 ''Fibrous or filamentary materials'' or prepregs, other than those controlled by 1C010.a, .b or .e, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See 9A110 for fiber prepregs.
Related Definitions: For the purpose of this entry, the term ''fibrous or filamentary materials'' is restricted to continuous ''monofilaments'', ''yarns'', ''rovings'', ''tows'' or ''tapes''.

Definitions for other terms used in this entry:

Filament or Monofilament is the smallest increment of fiber, usually several μm in diameter.

Strand is a bundle of filaments (typically over 200) arranged approximately parallel.

Roving is a bundle (typically 12–120) of approximately parallel strands.

Yarn is a bundle of twisted strands.

Tow is a bundle of filaments, usually approximately parallel.

Tape is a material constructed of interlaced or unidirectional filaments, strands, rovings, tows or yarns, etc., usually preimpregnated with resin.

Specific modulus is the Young's modulus in N/m^2 divided by the specific weight in N/m^3, measured at a temperature of 23 ± 2 °C and a relative humidity of 50 ± 5 percent.

Specific tensile strength is the ultimate tensile strength in N/m^2 divided by specific weight in N/m^3, measured at a temperature of 23 ± 2 °C and a relative humidity of 50 ± 5 percent.

Items: a. Carbon or aramid ''fibrous or filamentary materials'' having a ''specific modulus'' of 12.7 x 10^6 m or greater or a ''specific tensile strength'' of 235 x 10^3 m or greater *except* Aramid ''fibrous or filamentary materials'' having 0.25 percent or more by weight of an ester based fibre surface modifier;

b. Glass ''fibrous or filamentary materials'' having a ''specific modulus'' of 3.18 x 10^6 m or greater and a ''specific tensile strength'' of 76.2 x 10^3 m or greater; *or*

c. Thermoset resin impregnated continuous ''yarns'', ''rovings'', ''tows'' or ''tapes'' with a width no greater than 15 mm (prepregs), made from carbon or glass ''fibrous or filamentary materials'' controlled by 1C210.a or .b.

Technical Note: The resin forms the matrix of the composite.

1C216 Maraging steel, other than that controlled by 1C116, capable of an ultimate tensile strength of 2,050 MPa or more, at 293 K (20° C), except forms in which no linear dimension exceeds 75 mm.

License Requirements

Reason for Control: NP, MT, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: The phrase ''maraging steel capable of'' encompasses maraging steel before or after heat treatment.
Items: The list of items controlled is contained in the ECCN heading.

1C225 Boron and boron compounds, mixtures and loaded materials in which the boron-10 isotope is more than 20% by weight of the total boron content.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C226 Parts made of tungsten, tungsten carbide, or tungsten alloys (greater than 90% tungsten) having a mass greater than 20 kg and a hollow cylindrical symmetry (including cylinder segments) with an inside diameter greater than 100 mm but less than 300 mm, except parts specially designed for use as weights or gamma-ray collimators.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C227 Calcium (high purity) containing both less than 1,000 parts per million by weight of metallic impurities other than magnesium and less than 10 parts per million of boron.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C228 Magnesium (high purity) containing both less than 200 parts per million by weight of metallic impurities other than calcium and less than 10 parts per million of boron.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C229 High purity (99.99% or greater) bismuth with very low silver content (less than 10 parts per million).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C230 Beryllium metal, alloys containing more than 50% of beryllium by weight, beryllium compounds, or manufactures thereof, including waste and scrap containing beryllium metal, alloys, or compounds.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: (1) This entry includes waste and scrap containing beryllium metal, alloys, or compounds. (2) This entry does not control: (a) Metal windows for X-ray machines, or for bore-hole logging devices; (b) Oxide shapes in fabricated or semi-fabricated forms specially designed for electronic component parts or as substrates for electronic circuits; and, (c) Beryl (silicate of beryllium and aluminum) in the form of emeralds or aquamarines.
Related Definitions: N/A.
Items: The list of items controlled is contained in the ECCN heading.

1C231 Hafnium metal, alloys and compounds of hafnium containing more than 60% hafnium by weight and manufactures thereof.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controsl: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C232 Helium-3 or helium isotopically enriched in the helium-3 isotope, mixtures containing helium-3, or products or devices containing any of the foregoing, except a product or device containing less than 1 g of helium-3.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C233 Lithium enriched in the 6 isotope (^{6}Li) to greater than 7.5 atom percent, alloys, compounds or mixtures containing lithium enriched in the 6 isotope, or products or devices containing any of the foregoing except thermoluminescent dosimeters.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: The natural occurrence of the 6 isotope in lithium is 7.5 atom percent.

Items: The list of items controlled is contained in the ECCN heading.

1C234 Zirconium with a hafnium content of less than 1 part hafnium to 500 parts zirconium by weight, in the form of metal, alloys containing more than 50% zirconium by weight, or compounds, or manufactures wholly thereof; except zirconium in the form of foil having a thickness not exceeding 0.10 mm.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: Zirconium metal and alloys in the form of tubes or assemblies of tubes, specially designed or prepared for use in a reactor are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.) This entry includes waste and scrap containing zirconium. This entry does not control zirconium in the form of foil or strip having a thickness not exceeding 0.10 mm (0.004 in.).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C235 Tritium, tritium compounds, mixtures containing tritium in which the ratio of tritium to hydrogen by atoms exceeds 1 part in 1000, or products or devices containing any of the foregoing; except, a product or device containing not more than 1.48×10^3 GBq (40 Ci) of tritium in any form.

License Requirements

Reason for Control:
Control(s): Items described in 1C235 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C236 Alpha-emitting radionuclides having an alpha half-life of 10 days or greater but less than 200 years, compounds or mixtures containing any of these radionuclides with a total alpha activity of 37 GBq/kg (1 Ci/kg) or greater, or products or devices containing any of the foregoing, except a product or device containing less than 3.7 GBq (100 millicuries) of alpha activity.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Millicuries
Related Controls: Certain alpha emitting radionuclides are subject to the export licensing authority of the Nuclear Regulatory Commission. (See also 10 CFR part 110.)
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C237 Radium-226, radium-226 compounds, mixtures containing radium-226, or products or devices containing any of the foregoing, except medical applicators, or products or devices containing not more than 0.37 GBq (10 millicuries) of radium-226 in any form.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C238 Chlorine trifluoride (ClF_3).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C239 High explosives, other than those controlled by the U.S. Munitions List, or substances or mixtures containing more than 2% thereof, with a crystal density greater than 1.8 gm per cm^3 and having a detonation velocity greater than 8,000 m/s.

License Requirements

Reason for Control:

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: See also 22 CFR part 12
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C240 Nickel powder or porous nickel metal, other than those controlled by 0C006, as follows (see List of Items Controlled).

License Requirements

Reason for Control:

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Powder with a nickel purity content of 99.0% by weight or greater and a mean particle size of less than 10 micrometers measured by American Society for Testing and Materials (ASTM) B330 standard, except filamentary nickel powders;

b. Porous nickel powder produced from materials controlled by 1C240.a, except single porous nickel sheets not exceeding 1,000 cm^2 per sheet.

Note: 1C240.b refers to porous metal formed by compacting and sintering the materials in 1C240.a to form a metal material with fine pores interconnected throughout the structure.

1C350 Chemicals that may be used as precursors for toxic chemical agents, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes

1. *SAMPLE SHIPMENTS:* Certain sample shipments of chemicals controlled under ECCN 1C350 may be made without a license, as provided by the following:

a. Chemicals Not Eligible: The following chemicals are *not* eligible for sample shipments: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856–11–8), Ethylphosphonyl difluoride (C.A.S. #753–98–0), and Methylphosphonyl difluoride (C.A.S. #676–99–3).

b. Countries Not Eligible: The following countries are *not* eligible to receive sample shipments: Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria.

c. Sample Shipments: A license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments, in any quantity, not exceeding the totals indicated in this paragraph may be exported without a license, in accordance with the provisions of this Note 1. A consignee that receives a sample shipment under this exclusion may not resell, transfer or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to the chemical weapons. However, a sample shipment received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled ''Report of Sample Shipments of Chemical Precursors'' at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, DC 20044, Attn: ''Report of Sample Shipments of Chemical Precursors''.

2. *MIXTURES:* Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements:

a. A license is required, regardless of the concentrations in the mixture, for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S.#57856–11–8), Ethylphosphonyl difluoride (C.A.S.#753–98–0) and Methylphosphonyl difluoride (C.A.S.#676–99–3);

b. A license is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture on a solvent free basis: Arsenic trichloride (C.A.S.#7784–34–1), Benzilic acid (C.A.S.#76–93–7), Diethyl ethylphosphonate (C.A.S.#78–38–6), Diethyl methylphosphonite (C.A.S.#15715–41–0), Diethyl-N,N-dimethylphosphoroamidate (C.A.S. #2404–03–7), N,N-Diisopropyl-beta-aminoethane thiol (C.A.S.#5842–07–9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S.#4261–68–1), N,N-Diisopropyl-beta-aminoethanol (C.A.S.#96–80–0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S.#96–79–7), Dimethyl ethylphosphonate (C.A.S.#6163–75–3), Dimethyl methylphosphonate (C.A.S.#756–79–6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S.#1498–40–4), Ethylphosphonus difluoride [Ethylphosphinyl difluoride] (C.A.S.#430–78–4), Ethylphosphonyl dichloride (C.A.S.#1066–50–8), Methylphosphonous dichloride [Methylphosphinyl dichloride] (C.A.S.#676–83–5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S.#753–59–3), Methylphosphonyl dichloride (C.A.S.#676–97–1), Pinacolyl alcohol (C.A.S.#464–07–3), 3-Quinuclidinol (C.A.S.#1619–34–7), and Thiodiglycol (C.A.S.#111–48–8); (Related ECCN: 1C995)

c. A license is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture on a solvent free basis (related ECCN: 1C995); and

d. A license is not required under this entry for mixtures when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN EAR99.

e. Calculation of concentrations of AG-controlled chemicals.

1. Usual Commercial Purposes. In calculating the percentage of an AG controlled chemical in a mixture (solution), any other chemical must be excluded if it was not added for usual commercial purposes, but was added for the sole purpose of circumventing the Export Administration Regulations.

2. ''Solvent Free Basis Requirement.'' When calculating the percentage, by weight, of components in a chemical mixture, you must exclude from the calculation any component of the mixture that acts as a solvent.

3. Solvent—For purposes of this ECCN ''A substance capable of dissolving another substance to form a uniformly dispersed mixture (solution)''.

- Solvents are liquids at standard temperature and pressure (STP).
- In no instance is an AG controlled chemical considered a ''solvent''.
- All ingredients of mixtures are expressed in terms of weight.
- The solvent component of the mixture converts it into a solution.

3. *TRACE QUANTITIES:* a. A license is required for mixtures containing any amount (including trace quantities) for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methyl phosphonite (QL) (C.A.S. #57856–11–8), Ethyl phosphonyl difluoride (C.A.S. #753–98–0), and Methyl phosphonyl difluoride (C.A.S. #676–99–3).

b. Except as noted in paragraph (3)(a) of the License Requirements Note, a license is not required under this entry for mixtures that contain a cumulative total concentration of no more than 10,000 parts by weight (pbw) per million of all precursor or intermediate chemicals listed in this entry. The calculation for this paragraph (3)(b) should not be done on a solvent-free basis (related ECCN: 1C995).

c. Countries Not Eligible: The following countries are not eligible for exports under this Trace Quantities Note: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

4. *COMPOUNDS:* A license is not required under this entry for chemical compounds created with any chemicals identified in this ECCN 1C350, unless those compounds are also identified in this entry.

Technical Notes: 1. For purposes of this entry, a ''mixture'' is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

3. All *de minimis* exclusions of this entry extend to all mixtures including those that contain no solvents.

4. A Solvent is defined as a substance capable of dissolving another substance to form a uniformly dispersed mixture (solution). For examples and clarification of the term ''solvent free'' basis, see § 770.4 of the EAR.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Liters or kilograms, as appropriate
Related Controls: See also 1C995
Related Definition: See § 770.2(k) of the EAR for synonyms for the chemicals listed in this entry.
Items: a. Precursor Chemicals, as follows:

a.1. (C.A.S. #1341–49–7) Ammonium hydrogen fluoride;

a.2. (C.A.S. #7784–34–1) Arsenic trichloride;

a.3. (C.A.S. #76–93–7) Benzilic acid;

a.4. (C.A.S. #107–07–3) 2-Chloroethanol;

a.5. (C.A.S. #78–38–6) Diethyl ethylphosphonate;

a.6. (C.A.S. #15715–41–0) Diethyl methylphosphonite;

a.7. (C.A.S. S.#2404–03–7) Diethyl-N,N-dimethylphosphoroamidate;

a.8. (C.A.S. #762–04–9) Diethyl phosphite;

a.9. (C.A.S. #100–37–8) N,N-Diethylaminoethanol;

a.10. (C.A.S. #5842–07–9) N,N-Diisopropyl-beta-aminoethane thiol;

a.11. (C.A.S. #4261–68–1) N,N-Diisopropyl-beta-aminoethyl chloride hydrochloride;

a.12. (C.A.S. #96–80–0) N,N-Diisopropyl-beta-aminoethanol;

a.13. (C.A.S. #96–79–7), N,N-Diisopropyl-beta-aminoethyl chloride;

a.14. (C.A.S. #108–18–9) Di-isopropylamine;

a.15. (C.A.S. #6163–75–3) Dimethyl ethylphosphonate;

a.16. (C.A.S. #756–79–6) Dimethyl methylphosphonate;

a.17. (C.A.S. #868–85–9) Dimethyl phosphite (dimethyl hydrogen phosphite);

a.18. (C.A.S. #124–40–3) Dimethylamine;

a.19. (C.A.S. #506–59–2) Dimethylamine hydrochloride;

a.20. (C.A.S. #57856–11–8) 0-Ethyl-2-diisopropylaminoethyl methyl phosphonite (QL);

a.21. (C.A.S. #1498–40–4) Ethyl phosphonous dichloride [Ethyl phosphinyl dichloride];
a.22. (C.A.S. #430–78–4) Ethyl phosphonus difluoride [Ethyl phosphinyl difluoride];
a.23. (C.A.S. #1066–50–8) Ethyl phosphonyl dichloride;
a.24. (C.A.S. #753–98–0) Ethyl phosphonyl difluoride;
a.25. (C.A.S. #7664–39–3) Hydrogen fluoride;
a.26. (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine;
a.27. (C.A.S. #76–89–1) Methyl benzilate;
a.28. (C.A.S. #676–83–5) Methyl phosphonous dichloride [Methyl phosphinyl dicloride];
a.29. (C.A.S. #753–59–3) Methyl phosphonous difluoride [Methyl phosphinyl difluoride];
a.30. (C.A.S. #676–97–1) Methyl phosphonyl dichloride;
a.31. (C.A.S. #676–99–3) Methyl phosphonyl difluoride;
a.32. (C.A.S. #10025–87–3) Phosphorus oxychloride;
a.33. (C.A.S. #10026–13–8) Phosphorus pentachloride;
a.34. (C.A.S. #1314–80–3) Phosphorus pentasulfide;
a.35. (C.A.S. #7719–12–2) Phosphorus trichloride;
a.36. (C.A.S. #75–97–8) Pinacolone;
a.37. (C.A.S. #464–07–3) Pinacolyl alcohol;
a.38. (C.A.S. #151–50–8) Potassium cyanide;
a.39. (C.A.S. #7789–23–3) Potassium fluoride;
a.40. (C.A.S. #7789–29–9) Potassium bifluoride;
a.41. (C.A.S. #1619–34–7) 3-Quinuclidinol;
a.42. (C.A.S. #3731–38–2) 3-Quinuclidone;
a.43. (C.A.S. #1333–83–1) Sodium bifluoride;
a.44. (C.A.S. #143–33–9) Sodium cyanide;
a.45. (C.A.S. #7681–49–4) Sodium fluoride;
a.46. (C.A.S. #1313–82–2) Sodium sulfide;
a.47. (C.A.S. #10025–67–9) Sulfur monochloride;
a.48. (C.A.S. #10545–99–0) Sulfur dichloride;
a.49. (C.A.S. #111–48–8) Thiodiglycol;
a.50. (C.A.S. #7719–09–7) Thionyl chloride;
a.51. (C.A.S. #102–71–6) Triethanolamine;
a.52. (C.A.S. #637–39–8) Triethanolamine hydrochloride;
a.53. (C.A.S. #122–52–1) Triethyl phosphite; *and*
a.54. (C.A.S. #121–45–9) Trimethyl phosphite.
b. Reserved.

1C351 Human pathogens, zoonoses, and ''toxins'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines and ''immunotoxins'' are excluded from the scope of this entry. See also 1C991.
Related Definition: (1) For the purposes of this entry ''immunotoxin'' is defined as an antibody-toxin conjugate intended to destroy specific target cells (e.g., tumor cells) that bear antigens homologous to the antibody. (2) For the purposes of this entry ''subunit'' is defined as a portion of the ''toxin''.
Items: a. Viruses, as follows:
a.1. Chikungunya virus;
a.2. Congo-Crimean haemorrhagic fever virus;
a.3. Dengue fever virus;
a.4. Eastern equine encephalitis virus;
a.5. Ebola virus;
a.6. Hantaan virus;
a.7. Japanese encephalitis virus;
a.8. Junin virus;
a.9. Lassa fever virus
a.10. Lymphocytic choriomeningitis virus;
a.11. Machupo virus;
a.12. Marburg virus;
a.13. Monkey pox virus;
a.14. Rift Valley fever virus;
a.15. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
a.16. Variola virus;
a.17. Venezuelan equine encephalitis virus;
a.18. Western equine encephalitis virus;
a.19. White pox; *or*
a.20. Yellow fever virus.
b. Rickettsiae, as follows:
b.1. Bartonella quintana (Rochalimea quintana, Rickettsia quintana);
b.2. Coxiella burnetii;
b.3. Rickettsia prowasecki; *or*
b.4. Rickettsia rickettsii.
c. Bacteria, as follows:
c.1. Bacillus anthracis;
c.2. Brucella abortus;
c.3. Brucella melitensis;
c.4. Brucella suis;
c.5. Burkholderia mallei (Pseudomonas mallei);
c.6. Burkholderia pseudomallei (Pseudomonas pseudomallei);
c.7. Chlamydia psittaci;
c.8. Clostridium botulinum;
c.9. Francisella tularensis;
c.10. Salmonella typhi;
c.11. Shigella dysenteriae;
c.12. Vibrio cholerae;
c.13. Yersinia pestis.
d. ''Toxins'', as follows: and subunits thereof:
d.1. Botulinum toxins;
d.2. Clostridium perfringens toxins;
d.3. Conotoxin;
d.4. Microcystin (cyanginosin);
d.5. Ricin;
d.6. Saxitoxin;
d.7. Shiga toxin;
d.8. Staphylococcus aureus toxins;
d.9. Tetrodotoxin;
d.10. Verotoxin; *or*
d.11. Aflatoxins.

1C352 Animal pathogens, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines are excluded from the scope of this entry. See also 1C991.
Related Definition: N/A
Items: a. Viruses, as follows:
a.1. African swine fever virus;
a.2. Avian influenza virus that are:
a.2.a. Defined in EC Directive 92/40/EC (O.J. L.16 23.1.92 p.19) as having high pathogenicity, as follows:
a.2.a.1. Type A viruses with an IVPI (intravenous pathogenicity index) in 6 week old chickens of greater than 1.2; *or*
a.2.a.2. Type A viruses H5 or H7 subtype for which nucleotide sequencing has demonstrated multiple basic amino acids at the cleavage site of haemagglutinin;
a.3. Bluetongue virus;
a.4. Foot and mouth disease virus;
a.5. Goat pox virus;
a.6. Porcine herpes virus (Aujeszky's disease);
a.7. Swine fever virus (Hog cholera virus);
a.8. Lyssa virus;
a.9. Newcastle disease virus;
a.10. Peste des petits ruminants virus;
a.11. Porcine enterovirus type 9 (swine vesicular disease virus);
a.12. Rinderpest virus;
a.13. Sheep pox virus;
a.14. Teschen disease virus;
a.15. Vesicular stomatitis virus;
b. Bacteria, as follows:
b.1. Mycoplasma mycoides.
b.2. Reserved.

1C353 Genetically-modified ''microorganisms'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines are excluded from the scope of this entry. See also 1C991
Related Definition: N/A
Items: a. Genetically modified ''microorganisms'' or genetic elements that

contain nucleic acid sequences associated with pathogenicity of organisms controlled by 1C351.a to .c or 1C352 or 1C354;

b. Genetically modified ''microorganisms'' or genetic elements that contain nucleic acid sequences coding for any of the ''toxins'' controlled by 1C351.d or ''sub-units of toxins'' thereof.

1C354 Plant pathogens, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: All vaccines are excluded from the scope of this entry. See also 1C991
Related Definitions: N/A
Items: a. Bacteria, as follows:

a.1. Xanthomonas albilineans;

a.2. Xanthomonas campestris pv. citri including strains referred to as Xanthomonas campestris pv. citri types A,B,C,D,E or otherwise classified as Xanthomonas citri, Xanthomonas campestris pv. aurantifolia or Xanthomonas campestris pv. citrumelo;

b. Fungi, as follows:

b.1. Colletotrichum coffeanum var. virulans (Colletotrichum kahawae);

b.2. Cochliobolus miyabeanus (Helminthosporium oryzae);

b.3. Microcyclus ulei (syn. Dothidella ulei);

b.4. Puccinia graminis (syn. Puccinia graminis f. sp. tritici);

b.5. Puccinia striiformis (syn. Puccinia glumarum);

b.6. Magnaporthe grisea (pyricularia grisea/pyricularia oryzae).

1C980 Inorganic chemicals listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS
Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons

List of Items Controlled

Unit: Barrels/Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1C981 Crude petroleum including reconstituted crude petroleum, tar sands & crude shale oil listed in Supplement No. 1 to part 754 of the EAR.

License Requirements

Reason for Control: SS
Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons

List of Items Controlled

Unit: Barrels/Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C982 Other petroleum products listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS
Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C983 Natural gas liquids and other natural gas derivatives listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS
Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons.

List of Items Controlled

Unit: Barrels/Liters
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C984 Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy) listed in Supplement No. 1 to part 754 of the EAR that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

License Requirements

Reason for Control: SS
Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons

List of Items Controlled

Unit: Millions of cubic feet
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C988 Western red cedar (thuja plicata), logs and timber, and rough, dressed and worked lumber containing wane listed in Supplement No. 2 to part 754 of the EAR.

License Requirements

Reason for Control: SS
Control(s): SS applies to entire entry. For licensing requirements (and possible License Exceptions) proceed directly to part 754 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SS reasons

List of Items Controlled

Unit: Million board feet scribner
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C990 Fibrous and filamentary materials, not controlled by 1C010 or 1C210, for use in ''composite'' structures and with a specific modulus of 3.18×10^6 m or greater and a specific tensile strength of 7.62×10^4 m or greater.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1C991 Vaccines containing items controlled by ECCNs 1C351, 1C352, 1C353, and 1C354; and immunotoxins.

License Requirements

Reason for Control: AT

AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: For the purpose of this entry ''immunotoxin'' is defined as an antibody-toxin conjugate intended to destroy specific target cells (e.g., tumor cells) that bear antigens homologous to the antibody
Items: The list of items controlled is contained in the ECCN heading

1C992 Oil well perforators.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Materials in number
Related Controls: N/A
Related Definitions: N/A
Items: a. Shaped charges specially designed for oil well operations, utilizing one charge functioning along a single axis, that upon detonation produce a hole, and:

a.1. Contain any formulation of RDX, PYX, PETN, HNS, or HMX; *and*

a.2. Have only a uniformly shaped conical liner with an included angle of 90 degrees or less; *and*

a.3. Have a total explosive mass of no more than 90 grams; *and*

a.4. Have a diameter not exceeding three inches.

b. Reserved.

1C995 Mixtures containing precursor and intermediate chemicals used in the ''production'' of chemical warfare agents that are not controlled by ECCN 1C350.

License Requirements

Reason for Control: AT

AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definition: For calculation of *de minimis* quantities of controlled chemicals in mixtures, see the License Requirements Notes 2 and 3 under ECCN 1C350 and § 770.4 of the EAR
Items: The list of items controlled is contained in the ECCN heading

D. Software

1D001 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 1B001 to 1B003.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' for the ''development'', ''production'', or ''use'' of items controlled by 1B001 for MT reasons.	MT Column 1
NP applies to ''software'' for the ''development'', ''production'' or ''use'' of items controlled by 1B001 for NP reasons.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: Yes, except N/A for MT
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: See also 1D101 and 1D102
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D002 ''Software'' for the ''development'' of organic ''matrix'', metal ''matrix'' or carbon ''matrix'' laminates or ''composites''.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' specially designed or modified for the ''development'' of ''composites'' controlled by 1A, 1B or 1C entries for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under Exceptions.

License Exceptions

CIV: Yes, except N/A for MT
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: ''Software'' for items controlled by 1A102 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D018 ''Software'' specially designed or modified for the ''development'', ''production'', or ''use'' of items controlled by 1B018.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' for the ''development'', ''production'', or ''use'' of items controlled by 1B018 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D101 ''Software'' specially designed for the ''use'' of goods controlled by 1B101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D102 Other ''software'' not controlled by 1D001, 1D002, and 1D103, specially designed for the ''development'', ''production'' or ''use'' of items controlled by 1A, 1B, and 1C for MT reasons.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D103 ''Software'' specially designed for analysis of reduced observables such as radar reflectivity, ultraviolet/infrared signatures and acoustic signatures.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D201 ''Software'' specially designed for the ''use'' of goods controlled by 1B201.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D390 ''Software'' for process control that is specifically configured to control or initiate ''production'' of chemicals controlled by 1C350.

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

1D993 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of equipment or materials controlled by 1C210.b, 1C990, or 1C994.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

E. Technology

1E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A102, 1B or 1C (except 1C980 to 1C984, 1C988, 1C990, 1C991, 1C992, 1C994 and 1C995).

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	*Country Chart*
NS applies to ''technology'' for items controlled by 1A001.b and .c, 1A002, 1A003, 1B001 to 1B003, 1B018, 1B225, 1C001 to 1C010, 1C018, 1C230, 1C231, 1C233, or 1C234.	NS Column 1
MT applies to ''technology'' 1 for items controlled by 1B001, 1B101, 1B115, 1B116, 1C001, 1C007, 1C101, 1C107, 1C011, 1C111, 1C116, or 1C117 for MT reasons.	MT Column 1
NP applies to ''technology'' for items controlled by 1A002, 1B001, 1B101, 1B201, 1B225 to 1B232, 1C001, 1C010, 1C202, 1C210, 1C216, 1C225 to 1C234, 1C236 to 1C238 for NP reasons.	NP Column 1
CB applies to ''technology'' for items controlled by 1C351, 1C352, 1C353, or 1C354.	CB Column 1
CB applies to ''technology'' for materials controlled by 1C350.	CB Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except for MT and for exports and reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for items controlled by 1C001 or 1C012; or 1A002.a, having an organic ''matrix'' and made from materials listed under 1C010.c or 1C010.d.

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 1E101 and 1E210. (2) ''Technology'' for items controlled by 1C235 are subject to the export licensing authority of the Department of Energy (see 10 CFR part 810). (3) ''Technology'' for items described in 1C012 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (4) ''Technology'' for items controlled by 1A102 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E002 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to 1E002.e	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except for 1E002.e

List of Items Controlled

Unit: N/A
Related Controls: See also 1E102, 1E202, and 1E101 for ''technology'' related to 1E002.e
Related Definitions: N/A
Items: a. ''Technology'' for the ''development'' or ''production'' of polybenzothiazoles or polybenzoxazoles;

b. ''Technology'' for the ''development'' or ''production'' of fluoroelastomer compounds containing at least one vinylether monomer;

c. ''Technology'' for the design or ''production'' of the following base materials or non-''composite'' ceramic materials:

c.1. Base materials having all of the following characteristics:

c.1.a. Any of the following compositions:

c.1.a.1. Single or complex oxides of zirconium and complex oxides of silicon or aluminum;

c.1.a.2. Single nitrides of boron (cubic crystalline forms);

c.1.a.3. Single or complex carbides of silicon or boron; *or*

c.1.a.4. Single or complex nitrides of silicon;

c.1.b. Total metallic impurities, excluding intentional additions, of less than:

c.1.b.1. 1,000 ppm for single oxides or carbides; *or*

c.1.b.2. 5,000 ppm for complex compounds or single nitrides; *and*

c.1.c. Having any of the following:

c.1.c.1. Average particle size equal to or less than 5 μm and no more than 10% of the particles larger than 10 μm; *or*

Note: For zirconia, these limits are 1 μm and 5 μm respectively.

c.1.c.2. Having all of the following:

c.1.c.2.a. Platelets with a length to thickness ratio exceeding 5;

c.1.c.2.b. Whiskers with a length to diameter ratio exceeding 10 for diameters less than 2 µm; *and*

c.1.c.2.c. Continuous or chopped fibers less than 10 µm in diameter;

c.2. Non-''composite'' ceramic materials composed of the materials described in 1E002.c.1;

Note: 1E002.c.2 does not control technology for the design or production of abrasives.

d. ''Technology'' for the ''production'' of aromatic polyamide fibers;

e. ''Technology'' for the installation, maintenance or repair of materials controlled by 1C001;

f. ''Technology'' for the repair of ''composite'' structures, laminates or materials controlled by 1A002, 1C007.c or 1C007.d.

Note: 1E002.f does not control ''technology'' for the repair of ''civil aircraft'' structures using carbon ''fibrous or filamentary materials'' and epoxy resins, contained in aircraft manufacturers' manuals.

1E101 ''Technology'' according to the General Technology Note for the ''use'' of goods controlled by 1A102, 1B001, 1B101, 1B115, 1B116, 1C001, 1C007, 1C011, 1C101, 1C107, 1C111, 1C116, 1C117, 1D101 or 1D103.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to 1B001.a and 1B101.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: ''Technology'' for items controlled by 1A102 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E102 ''Technology'' according to the General Technology Note for the ''development'' of ''software'' controlled by 1D001, 1D101 or 1D103.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E103 ''Technical data'' (including processing conditions) for the regulation of temperature, pressure or atmosphere in autoclaves or hydroclaves, when used for the ''production'' of ''composites'' or partially processed ''composites''.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: See also 1E203
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E104 ''Technology'' relating to the ''production'' of pyrolitically derived materials formed on a mold, mandrel or other substrate from precursor gases which decompose in the 1,573 K (1,300° C) to 3,173 K (2,900° C) temperature range at pressures of 130 Pa to 20 kPa.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: This entry includes ''technology'' for the composition of precursor gases, flow-rates and process control schedules and parameters.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E201 ''Technology'' according to the General Technology Note for the ''use'' of goods controlled by 1A002, 1A202, 1A225 to 1A227, 1B201, 1B225 to 1B233, 1C002.a.2.c or .d, 1C010.b, 1C202, 1C210, 1C216, 1C225 to 1C240 or 1D201.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E202 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of goods controlled by 1A202 or 1A225 to 1A227.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E203 ''Technology'' according to the General Technology Note for the ''development'' of ''software'' controlled by 1D201.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E350 ''Technology'' according to the ''General Technology Note'' for facilities designed or intended to produce chemicals controlled by 1C350.

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E351 "Technology" according to the "General Technology Note" for the disposal of chemicals or microbiological materials controlled by 1C350, 1C351, 1C352, 1C353, or 1C354.

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to "technology" for the disposal of items controlled by 1C351, 1C352, 1C353, or 1C354.	CB Column 1
CB applies to "technology" for the disposal of items controlled by 1C350.	CB Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

1E994 "Technology" for the "development", "production", or "use" of fibrous and filamentary materials controlled by 1C990 or fluorocarbon electronic cooling fluids controlled by 1C994.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere controlled by this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 2—Materials Processing

Note: For quiet running bearings, see the U.S. Munitions List.

A. Equipment, Assemblies and Components

2A001 Anti-friction bearings and bearing systems, as follows, (see List of Items Controlled) and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: Yes, for 2A001.a and 2A001.b
CIV: Yes, for 2A001.a and 2A001.b

List of Items Controlled

Unit: $ value
Related Controls: (1) See also 2A991. (2) This entry does not control balls with tolerance specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse. (3) Quiet running bearings are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: Annular Bearing Engineers Committee (ABEC).
Items: a. Ball bearings and solid roller bearings having tolerances specified by the manufacturer in accordance with ABEC 7, ABEC 7P, ABEC 7T or ISO Standard Class 4 or better (or national equivalents), and having rings, balls or rollers made from monel or beryllium;

Note: 2A001.a does not control tapered roller bearings.

b. Other ball bearings and solid roller bearings having tolerances specified by the manufacturer in accordance with ABEC 9, ABEC 9P or ISO Standard Class 2 or better (or national equivalents);

Note: 2A001.b does not control tapered roller bearings.

c. Active magnetic bearing systems using any of the following:

c.1. Materials with flux densities of 2.0 T or greater and yield strengths greater than 414 MPa;

c.2. All-electromagnetic 3D homopolar bias designs for actuators; *or*

c.3. High temperature (450 K (177 °C) and above) position sensors.

2A225 Crucibles made of materials resistant to liquid actinide metals, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Crucibles with a volume of between 150 ml and 8 liters and made of or coated with any of the following materials having a purity of 98% or greater:

a.1. Calcium fluoride (CaF_2);

a.2. Calcium zirconate (metazirconate) (Ca_2ZrO_3);

a.3. Cerium sulphide (Ce_2S_3);

a.4. Erbium oxide (erbia) (Er_2O_3);

a.5. Hafnium oxide (hafnia) (HfO_2);

a.6. Magnesium oxide (MgO);

a.7. Nitrided niobium-titanium-tungsten alloy (approximately 50% Nb, 30% Ti, 20% W);

a.8. Yttrium oxide (yttria) (Y_2O_3); *or*

a.9. Zirconium oxide (zirconia) (ZrO_2);

b. Crucibles with a volume of between 50 ml and 2 liters and made of or lined with tantalum, having a purity of 99.9% or greater;

c. Crucibles with a volume of between 50 ml and 2 liters and made of or lined with tantalum (having a purity of 98% or greater) coated with tantalum carbide, nitride or boride (or any combination of these).

2A226 Valves 5 mm or greater in "nominal size", with a bellows seal, wholly made of or lined with aluminum, aluminum alloy, nickel, or alloy containing 60% or more nickel, either manually or automatically operated.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Valves are also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definition: For valves with different inlet and outlet diameter, the "nominal size" parameter described in the entry refers to the smallest diameter.
Items: The list of items controlled is contained in the ECCN heading.

2A290 Generators and other equipment specially designed, prepared, or intended for use with nuclear plants.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items:

a. Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor;

b. Process control systems intended for use with the equipment controlled by 2A290.a.

2A291 Equipment related to nuclear material handling and processing and to nuclear reactors.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: Nuclear equipment is also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: a. Process control systems, except those controlled by 2A290.b, intended for use with nuclear reactors.

b. Casks that are specially designed for transportation of high-level radioactive material and that weigh more than 1,000 kg.

c. Commodities, parts and accessories specially designed or prepared for use with nuclear plants (e.g., snubbers, airlocks, reactor and fuel inspection equipment) except items licensed by the Nuclear Regulatory Commission, pursuant to 10 CFR part 110.

2A292 Piping, fittings and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Pressure tubes, pipes, and fittings in kilograms; valves in number; parts and accessories in $ value
Related Controls: Piping, fittings, and valves are also subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definitions: N/A
Items: a. Pressure tube, pipe, and fittings of 200 mm (8 inches) or more inside diameter, and suitable for operation at pressures of 3.4 Mpa (500 psi) or greater;

b. Pipe valves having all of the following characteristics:

b.1. A pipe size connection of 8 inches or more inside diameter;

b.2. Rated at 1,500 psi or more;

c. Parts, n.e.s.

2A293 Pumps designed to move molten metals by electromagnetic forces.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

2A991 Bearings and bearing systems not controlled by 2A001.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) This entry does not control balls with tolerance specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse. (2) Quiet running bearings are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls. (See 22 CFR part 121)
Related Definitions: (1) (a) DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm. (b) Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation. (2) Annular Bearing Engineers Committee (ABEC); American National Standards Institute (ANSI); Anti-Friction Bearing Manufacturers Association (AFBMA)
Items: a. Ball bearings or Solid ball bearings (except tapered roller bearings), having tolerances specified by the manufacturer in accordance with ABEC 7, ABEC 7P, or ABEC 7T or ISO Standard Class 4 or better (or equivalents) and having any of the following characteristics.

a.1. Manufactured for use at operating temperatures above 573 K (300° C) either by using special materials or by special heat treatment; *or*

a.2. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN.

b. Solid tapered roller bearings, having tolerances specified by the manufacturer in accordance with ANSI/AFBMA Class 00 (inch) or Class A (metric) or better (or equivalents) and having either of the following characteristics.

b.1. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN; *or*

b.2. Manufactured for use at operating temperatures below 219 K (−54° C) or above 423 K (150° C).

c. Gas-lubricated foil bearing manufactured for use at operating temperatures of 561 K (288° C) or higher and a unit load capacity exceeding 1 MPa.

d. Active magnetic bearing systems.

e. Fabric-lined self-aligning or fabric-lined journal sliding bearings manufactured for use at operating temperatures below 219 K (−54° C) or above 423 K (150° C).

2A993 Explosive detection systems, consisting of an automated device, or combination of devices, with the ability to detect the presence of different types of explosives, in passenger checked baggage, without need for human skill, vigilance, or judgment.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

2A994 Portable electric generators and specially designed parts.

License Requirements

Reason for Control: AT
Control(s): AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya, and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

Note: Exports from the U.S. and transshipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 742.8 and § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

B. Test, Inspection and Production Equipment

Notes for Category 2B: 1. Secondary parallel contouring axes (e.g., the w-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the

primary rotary axis) are not counted in the total number of contouring axes.

N.B. Rotary axes need not rotate over 360°. A rotary axis can be driven by a linear device (e.g., a screw or a rack-and-pinion).

2. Axis nomenclature shall be in accordance with International Standard ISO 841, ''Numerical Control Machines—Axis and Motion Nomenclature''.

3. For the purposes of 2B001 to 2B009 a ''tilting spindle'' is counted as a rotary axis.

4. Guaranteed positioning accuracy levels instead of individual test protocols may be used for each machine tool model using the agreed ISO test procedure.

5. The positioning accuracy of ''numerically controlled'' machine tools is to be determined and presented in accordance with ISO 230/2.

2B001 Machine tools and any combination thereof, for removing (or cutting) metals, ceramics or ''composites'', which, according to the manufacturer's technical specification, can be equipped with electronic devices for ''numerical control''.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to 2B001.a,b,c, and d, EXCEPT: (1) turning machines under 2B001.a with a capacity equal to or less than 35 mm diameter; (2) bar machines (Swissturn), limited to machining only bar feed through, if maximum bar diameter is equal to or less than 42 mm and there is no capability of mounting chucks. (Machines may have drilling and/or milling capabilities for machining parts with diameters less than 42 mm); or (3) milling machines under 2B001.b. with x-axis travel greater than two meters and overall ''positioning accuracy'' on the x-axis more (worse) than 0.030 mm.	NP Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 2B290 and 2B991
Related Definitions: N/A
Items: a. Machine tools for turning, having all of the following characteristics:

a.1. Positioning accuracy with all compensations available of less (better) than 6 µm along any linear axis (overall positioning); *and*

a.2. Two or more axes which can be coordinated simultaneously for ''contouring control'';

Note: 2B001.a does not control turning machines specially designed for the production of contact lenses.

b. Machine tools for milling, having any of the following characteristics:

b.1.a. Positioning accuracy with all compensations available of less (better) than 6 µm along any linear axis (overall positioning); *and*

b.1.b. Three linear axes plus one rotary axis which can be coordinated simultaneously for ''contouring control'';

b.2. Five or more axes which can be coordinated simultaneously for ''contouring control''; *or*

b.3. A positioning accuracy for jig boring machines, with all compensations available, of less (better) than 4 µm along any linear axis (overall positioning);

c. Machine tools for grinding, having any of the following characteristics:

c.1.a. Positioning accuracy with all compensations available of less (better) than 4 µm along any linear axis (overall positioning); *and*

c.1.b. Three or more axes which can be coordinated simultaneously for ''contouring control''; *or*

c.2. Five or more axes which can be coordinated simultaneously for ''contouring control'';

Notes: 2B001.c does not control grinding machines, as follows:

1. Cylindrical external, internal, and external-internal grinding machines having all the following characteristics:

a. Limited to cylindrical grinding; *and*

b. Limited to a maximum workpiece capacity of 150 mm outside diameter or length.

2. Machines designed specifically as jig grinders having any of the following characteristics:

a. The c-axis is used to maintain the grinding wheel normal to the work surface; *or*

b. The a-axis is configured to grind barrel cams.

3. Tool or cutter grinding machines shipped as complete systems with ''software'' specially designed for the production of tools or cutters.

4. Crank shaft or cam shaft grinding machines.

5. Surface grinders.

d. Electrical discharge machines (EDM) of the non-wire type which have two or more rotary axes which can be coordinated simultaneously for ''contouring control'';

e. Machine tools for removing metals, ceramics or ''composites'':

e.1. By means of:

e.1.a. Water or other liquid jets, including those employing abrasive additives;

e.1.b. Electron beam; *or*

e.1.c. ''Laser'' beam; *and*

e.2. Having two or more rotary axes which:

e.2.a. Can be coordinated simultaneously for ''contouring control''; *and*

e.2.b. Have a positioning accuracy of less (better) than 0.003°;

f. Deep-hole-drilling machines and turning machines modified for deep-hole-drilling, having a maximum depth-of-bore capability exceeding 5,000 mm and specially designed components therefor.

2B003 ''Numerically controlled'' or manual machine tools, and specially designed components, controls and accessories therefor, specially designed for the shaving, finishing, grinding or honing of hardened (R_c = 40 or more) spur, helical and double-helical gears with a pitch diameter exceeding 1,250 mm and a face width of 15% of pitch diameter or larger finished to a quality of AGMA 14 or better (equivalent to ISO 1328 class 3).

License Requirements

Reason for Control: NS, AT

Control(s)	*County Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 2B993
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B004 Hot ''isostatic presses'', having all of the following characteristics described in the List of Items Controlled, and specially designed dies, molds, components, accessories and controls therefor.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to entire entry	MT Column 1
NP applies to entire entry, except 2B004.b.3 and presses with temperatures exceeding 1,733K, and pressure below 69 MPa.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 2B104 and 2B204
Related Definitions: N/A
Items: a. A controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 406 mm or more; *and*

b. Any of the following:

b.1. A maximum working pressure exceeding 207 MPa;

b.2. A controlled thermal environment exceeding 1,773 K (1,500° C); *or*

b.3. A facility for hydrocarbon impregnation and removal of resultant gaseous degradation products.

Technical Note: The inside chamber dimension is that of the chamber in which both the working temperature and the working pressure are achieved and does not include fixtures. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other.

2B005 Equipment specially designed for the deposition, processing and in-process control of inorganic overlays, coatings and surface modifications for non-electronic substrates, by processes shown in the Table and associated Notes following 2E003.f, and specially designed automated handling, positioning, manipulation and control components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control chemical vapor deposition, cathodic arc, sputter deposition, ion plating or ion implantation equipment specially designed for cutting or machining tools.
Related Definitions: N/A
Items: a. ''Stored program controlled'' chemical vapor deposition (CVD) production equipment having all of the following:

a.1. Process modified for one of the following:

a.1.a. Pulsating CVD;

a.1.b. Controlled nucleation thermal decomposition (CNTD); *or*

a.1.c. Plasma enhanced or plasma assisted CVD; *and*

a.2. Any of the following:

a.2.a. Incorporating high vacuum (equal to or less than 0.01 Pa) rotating seals; *or*

a.2.b. Incorporating *in situ* coating thickness control;

b. ''Stored program controlled'' ion implantation production equipment having beam currents of 5 mA or more;

c. ''Stored program controlled'' electron beam physical vapor (EB-PVD) production equipment incorporating all of the following:

c.1. Power systems rated for over 80 kW;

c.2. A liquid pool level ''laser'' control system which regulates precisely the ingots feed rate; *and*

c.3. A computer controlled rate monitor operating on the principle of photo-luminescence of the ionized atoms in the evaporant stream to control the deposition rate of a coating containing two or more elements;

d. ''Stored program controlled'' plasma spraying production equipment having any of the following characteristics:

d.1. Operating at reduced pressure controlled atmosphere (equal or less than 10 kPa measured above and within 300 mm of the gun nozzle exit) in a vacuum chamber capable of evacuation down to 0.01 Pa prior to the spraying process; *or*

d.2. Incorporating *in situ* coating thickness control;

e. ''Stored program controlled'' sputter deposition production equipment capable of current densities of 0.1 mA/mm^2 or higher at a deposition rate 15 µm/h or more;

f. ''Stored program controlled'' cathodic arc deposition equipment incorporating a grid of electromagnets for steering control of the arc spot on the cathode;

g. ''Stored program controlled'' ion plating production equipment allowing for the *in situ* measurement of any of the following:

g.1. Coating thickness on the substrate and rate control; *or*

g.2. Optical characteristics.

2B006 Dimensional inspection or measuring systems and equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to 2B006.a and .b.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: See also 2B206 and 2B996.
Related Definition: (1) Machine tools which can be used as measuring machines are controlled if they meet or exceed the criteria specified for the machine tool function or the measuring machine function. (2) A machine described by this entry is controlled if it exceeds the control threshold anywhere within its operating range.
Items: a. Computer controlled, ''numerically controlled'' or ''stored program controlled'' dimensional inspection machines, having a three dimensional length (volumetric) ''measurement uncertainty'' equal to or less (better) than (1.7 + L/1,000) µm (L is the measured length in mm) tested according to ISO 10360–2;

b. Linear and angular displacement measuring instruments, as follows:

b.1. Linear measuring instruments having any of the following:

b.1.a. Non-contact type measuring systems with a ''resolution'' equal to or less (better) than 0.2 µm within a measuring range up to 0.2 mm;

b.1.b. Linear voltage differential transformer systems having all of the following characteristics:

b.1.b.1. ''Linearity'' equal to or less (better) than 0.1% within a measuring range up to 5 mm; *and*

b.1.b.2. Drift equal to or less (better) than 0.1% per day at a standard ambient test room temperature ± 1 K; *or*

b.1.c. Measuring systems having all of the following:

b.1.c.1. Containing a ''laser''; *and*

b.1.c.2. Maintaining, for at least 12 hours, over a temperature range of ± 1 K around a standard temperature and at a standard pressure, all of the following:

b.1.c.2.a. A ''resolution'' over their full scale of 0.1 µm or less (better); *and*

b.1.c.2.b. A ''measurement uncertainty'' equal to or less (better) than (0.2 + L/2,000) µm (L is the measured length in mm);

Note: 2B006.b.1 does not control measuring interferometer systems, without closed or open loop feedback, containing a ''laser'' to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.

b.2. Angular measuring instruments having an ''angular position deviation'' equal to or less (better) than 0.00025°;

Note: 2B006.b.2 does not control optical instruments, such as autocollimators, using collimated light to detect angular displacement of a mirror.

c. Equipment for measuring surface irregularities, by measuring optical scatter as a function of angle, with a sensitivity of 0.5 nm or less (better).

2B007 ''Robots'' having any of the following characteristics described in the List of Items Controlled and specially designed controllers and ''end-effectors'' therefor.

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to 2B007.c if specially designed or rated as radiation hardened to withstand greater than 5 X 10^4 grays(Si) without operational degradation; to 2B007.b; and to specially designed controllers and ''end-effectors'' therefor.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000, except 2B007.b and .c
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 2B207 and 2B997
Related Definitions: N/A
Items: a. Capable in real time of full three-dimensional image processing or three-dimensional scene analysis to generate or modify ''programs'' or to generate or modify numerical program data;

Note: The scene analysis limitation does not include approximation of the third dimension by viewing at a given angle, or limited grey scale interpretation for the perception of depth or texture for the approved tasks (2½ D).

b. Specially designed to comply with national safety standards applicable to explosive munitions environments;

c. Specially designed or rated as radiation-hardened to withstand greater than 5×10^3 Gy (Si) without operational degradation; *or*

d. Specially designed to operate at altitudes exceeding 30,000 m.

2B008 Assemblies, units or inserts specially designed for machine tools, or for equipment controlled by 2B006 or 2B007, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 2B998
Related Definition: N/A
Items: a. Linear position feedback units (e.g., inductive type devices, graduated scales, infrared systems or ''laser'' systems) having an overall ''accuracy'' less (better) than (800 + ($600 \times L \times 10^{-3}$)) nm (L equals the effective length in mm);

Note: For ''laser'' systems see also Note to 2B006.b.1.

b. Rotary position feedback units (e.g., inductive type devices, scales, infrared systems or ''laser'' systems) having an ''accuracy'' less (better) than 0.00025°;

Note: For ''laser'' systems see also Note to 2B006.b.1.

c. ''Compound rotary tables'' and ''tilting spindles'', capable of upgrading, according to the manufacturer's specifications, machine tools to or above the levels controlled by 2B001 to 2B009.

2B009 Spin-forming machines and flow-forming machines, which, according to the manufacturer's technical specifications, can be equipped with ''numerical control'' units or a computer control and having all the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to spin-forming machines the machines combining the functions of spin-forming and flow-forming; and flow-forming machines.	MT Column 1
NP applies to flow-forming machines; and spin-forming machines capable of flow-forming functions.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 2B109 for additional flow-forming machines for MT and NP reasons. See also 2B209 for additional flow-forming machines controlled for NP reasons.
Related Definitions: Machines combining the function of spin-forming and flow-forming are for the purpose of 2B009 regarded as flow-forming machines.
Items: a. Two or more controlled axes of which at least two can be coordinated simultaneously for ''contouring control''; *and*

b. A roller force more than 60 kN.

2B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) usable in systems that are controlled for MT reasons including their propulsion systems and components, and pyrolytic deposition and densification equipment.	MT Column 1
RS applies to entire entry	RS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: Yes for Advisory Note in this entry to 2B018

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: Specialized machinery, equipment, gear, and specially designed parts and accessories therefor, including but not limited to the following, that are specially designed for the examination, manufacture, testing, and checking of arms, appliances, machines, and implements of war: a. Armor plate drilling machines, other than radial drilling machines;

b. Armor plate planing machines;

c. Armor plate quenching presses;

d. Centrifugal casting machines capable of casting tubes 6 feet (183 cm) or more in length, with a wall thickness of 2 inches (5 cm) and over;

e. Gun barrel rifling and broaching machines, and tools therefor;

f. Gun barrel rifling machines;

g. Gun barrel trepanning machines;

h. Gun boring and turning machines;

i. Gun honing machines of 6 feet (183 cm) stroke or more;

j. Gun jump screw lathes;

k. Gun rifling machines;

l. Gun straightening presses;

m. Induction hardening machines for tank turret rings and sprockets;

n. Jigs and fixtures and other metal-working implements or accessories of the kinds exclusively designed for use in the manufacture of firearms, ordnance, and other stores and appliances for land, sea, or aerial warfare;

o. Small arms chambering machines;

p. Small arms deep hole drilling machines and drills therefor;

q. Small arms rifling machines;

r. Small arms spill boring machines;

s. Tank turret bearing grinding machines.

Advisory Note: Licenses are likely to be approved, as administrative exceptions, for export and reexport to Country Group D:1 of equipment used to determine the safety data of explosives, as required by the International Convention on the Transport of Dangerous Goods (C.I.M.) articles 3 and 4 in Annex 1 RID, provided that such equipment will be used only by the railway authorities of current C.I.M. members, or by the Government-accredited testing facilities in those countries, for the testing of explosives to transport safety standards, of the following description:

a. Equipment for determining the ignition and deflagration temperatures;

b. Equipment for steel-shell tests;

c. Drophammers not exceeding 20 kg in weight for determining the sensitivity of explosives to shock;

d. Equipment for determining the friction sensitivity of explosives when exposed to charges not exceeding 36 kg in weight.

2B104 Equipment and process controls designed or modified for densification and pyrolysis of structural composite rocket nozzles and reentry vehicle nose tips.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to 2B104.a	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number

Related Controls: The only ''isostatic presses'' and furnaces controlled by 2B104 are: (a) ''Isostatic presses'', other than those controlled by 2B004, having all the following characteristics: (1) Maximum working pressure of 69 MPa or greater; (2) Designed to achieve and maintain a thermal environment of 873 K (600° C) or greater; *and* (3) Possessing a chamber cavity with an diameter of 254 mm or greater; (b) CVD Furnaces designed or modified for the densification of carbon-carbon composites.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B109 Flow-forming machines, other than those controlled by 2B009, and specially designed components therefor.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value.
Related Controls: See also 2B009 and 2B209.
Related Definition: This entry controls only spin-forming machines combining the functions of spin-forming and flow-forming and flow forming machines.
Items: a. According to the manufacturer's technical specification, can be equipped with ''numerical control'' units or a computer control, even when not equipped with such units; *and*

b. With more than two axes which can be coordinated simultaneously for ''contouring control.''

Technical Notes: 1. Machines combining the function of spin-forming and flow-forming are for the purpose of 2B109 regarded as flow-forming machines.

2. 2B109 does not control machines that are not usable in the production of propulsion components and equipment (e.g. motor cases) for systems in 9A005, 9A007.a, or 9A105.

2B116 Vibration test systems, equipment and components therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to electro-dynamic vibration test systems, employing feedback or closed loop control techniques and incorporating a digital controller, capable of vibrating at 10 g RMS or more between 20 Hz and 2000 Hz and imparting forces of 50 kN (11,250 lbs.) measured ''bare table'', or greater.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 9B990
Related Definitions: (1) The term ''digital control'' refers to equipment, the functions of which are, partly or entirely, automatically controlled by stored and digitally coded electrical signals. (2) The term ''bare table'' means a flat table, or surface, with no fixture or fitting.
Items: a. Vibration test systems employing feedback or closed loop techniques and incorporating a digital controller, capable of vibrating a system at 10 g RMS or more over the entire range 20 Hz to 2,000 Hz and imparting forces of 50 kN (11,250 lbs.), measured ''bare table'', or greater;

b. Digital controllers, combined with specially designed vibration test ''software'', with a real-time bandwidth greater than 5 kHz and designed for use with vibration test systems described in 2B116.a;

c. Vibration thrusters (shaker units), with or without associated amplifiers, capable of imparting a force of 50 kN (11,250 lbs.), measured ''bare table'', or greater, and usable in vibration test systems described in 2B116.a;

d. Test piece support structures and electronic units designed to combine multiple shaker units into a complete shaker system capable of providing an effective combined force of 50 kN, measured ''bare table'', or greater, and usable in vibration test systems described in 2B116.a.

2B201 Machine tools, other than those controlled by 2B001 for removing or cutting metals, ceramics or ''composites'', which, according to manufacturer's technical specification, can be equipped with electronic for simultaneous ''contouring control'' in two or more axes.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 2B290, 2B991, and 2D002 ''Numerical control'' units are controlled by their associated ''software''.
Related Definition: N/A
Items: a. Machine tools for milling, having any of the following characteristics:

a.1. ''Positioning accuracies'' with all compensations available less (better) than 0.006 mm along any linear axis (positioning); *or*

a.2. Two or more contouring rotary axes.

Note: 2B201.a. does not control milling having the following characteristics:

a. X-axis travel greater than 2 m;

b. Overall ''positioning accuracy'' on the x-axis more (worse) than 0.030 mm.

b. Machine tools for grinding, having any of the following characteristics:

b.1. ''Positioning accuracies'' with all compensations available less (better) than 0.004 mm along any linear axis (positioning); *or*

b.2. Two or more contouring rotary axes.

Note: 2B201.b does not control the following grinding machines:

a. Cylindrical external, internal, and external-internal grinding machines having all of the following characteristics:

1. Limited to cylindrical grinding;

2. A maximum workpiece outside diameter or length of 150 mm;

3. Not more than two axes that can be simultaneously for ''contouring control''; *and*

4. No contouring c axis;

b. Jig grinders with axes limited to x, y, c and a where c-axis is used to maintain the grinding wheel normal to the work surface, and the a axis is configured to grind barrel cams;

c. Tool or cutter grinding machines with ''software'' specially designed for the production of tools or cutters; *or*

d. Crankshaft or camshaft grinding machines.

c. Machines for turning, that have ''positioning accuracies'' with all compensations available less (better) than 0.006 mm along any linear axis (overall positioning) for machines capable of machining diameters greater than 35 mm.

Note: Bar machines (Swissturn), limited to machining only bar feed thru, are excluded if maximum bar diameter is equal to or less than 42 mm and there is no capability of mounting chucks. Machines may have drilling and/or milling capabilities for machining parts with diameters less than 42 mm.

2B204 ''Isostatic presses,'' not controlled by 2B004 or 2B104, capable of achieving a maximum working pressure of 69 Mpa (10,000 psi) or greater and having a chamber cavity with an inside diameter in excess of 152 mm (6 inches) and specially designed dies, molds, and controls therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definition: The inside chamber dimension is that of the chamber in which both the working temperature and working pressure are achieved and does not include fixtures. That dimension will be the smaller either the inside diameter of the pressure chamber or the inside diameter of the insulated chamber, depending on which of the two chambers is located inside the other.
Items: The list of items controlled is contained in the ECCN heading.

2B206 Dimensional inspection machines, devices or systems, other than those controlled by 2B006, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value.
Related Controls: See also 2B992.
Related Definition: (1) Machine tools that can be used as measuring machines are controlled if they meet or exceed the criteria specified for the machine function or the measuring machine function. (2) A machine controlled by 2B206 is controlled if it exceeds the control threshold anywhere within its operating range. (3) The probe used in determining the measurement uncertainty of a dimensional inspection system shall be described in VDI/VDE 2617 parts 2, 3 and 4.
Items: a. Computer controlled or numerically controlled dimensional inspection machines having both of the following characteristics:

a.1. Two or more axes; *and*

a.2. A one-dimensional length ''measurement uncertainty'' equal to or less (better) than (1.25 + L/1000) µm tested with a probe of ''accuracy'' of less (better) than 0.2 µm (L is the measured length millimeters) (Ref.:VDI/VDE 2617 Parts 1 and 2);

b. Systems for simultaneously linear-angular inspection of hemishells having both of the following characteristics:

b.1. ''Measurement uncertainty'' along any linear axis equal to less (better) than 3.5 µm per 5 mm; *and*

b.2. ''Angular position deviation'' equal to or less than 0.02°.

2B207 ''Robots'' or ''end-effectors'', other than those controlled by 2B007, specially designed to comply with national safety standards applicable to handling high explosives (for example, meeting code ratings for high explosives) and specially designed controllers therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B209 Flow forming machines, or spin forming machines capable of flow forming functions, other than those controlled by 2B009 or 2B109, or mandrels, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value.
Related Controls: N/A.
Related Definition: This entry includes machines which have only a single roller designed to deform metal plus two auxiliary rollers which support the mandrel, but do not participate directly in the deformation process.
Items: a. Machines having any of the following:

a.1. Having three or more rollers (active or guiding); *and*

a.2. According to the manufacturer's technical specification can be equipped with ''numerical control'' units or a computer control.

b. Rotor-forming mandrels designed to form cylindrical rotors of inside diameter between 75 mm (3 in.) and 400 mm (16 in.).

2B225 Remote manipulators that can be used to provide remote actions in radiochemical separation operations and hot cells, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value.
Related Controls: N/A.
Related Definition: Remote manipulators provide translation of human operator actions to a remote operating arm and terminal fixture. They may be of a ''master/slave'' type or operated by joystick or keypad.
Items: a. Having a capability of penetrating 0.6 m or more of hot cell wall (operation); *or*

b. Having a capability of bridging over the top of a hot cell wall with a thickness of 0.6 m or more (over-the-wall operation).

2B226 Vacuum or controlled environment (inert gas) induction furnaces capable of operation above 1,123 K (850° C) and having induction coils 600 mm or less in diameter, and designed for power inputs of 5 kW or more, and power supplies specially designed therefor with a specified power output of 5 kW or more.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value.
Related Controls: See also Category 3B. This entry does not control furnaces designed for the processing of semiconductor wafers.
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B227 Vacuum and controlled atmosphere metallurgical melting and casting furnaces and specially configured computer control and monitoring systems therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: N/A
Items: a. Arc remelt and casting furnaces with consumable electrode capacities

between 1000 cm^3 and 20,000 cm^3, capable of operating with melting temperatures above 1,973 K (1,700° C);

b. Electron beam melting and plasma atomization and furnaces, with a power of 50 kW or greater, capable of operating melting temperatures above 1,473 K (1,200° C).

2B228 Rotor fabrication and assembly equipment and bellows-forming mandrels and dies, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Rotor assembly equipment for assembly of gas centrifuge rotor sections, baffles and end caps, including associated precision mandrels, clamps and shrink fit machines;

b. Rotor straightening equipment for alignment of gas centrifuge rotor sections to a common axis;

Technical Note: Normally such equipment will consist of precision measuring probes linked to a computer that subsequently controls the action of, for example, pneumatic rams used for aligning the rotor tube sections.

c. Bellows-forming mandrels and dies for producing single-convolution bellows (bellows made of high-strength aluminum alloys, maraging steel or high strength filamentary materials). The bellows have all of the following dimensions:

c.1. 75 mm to 400 mm inside diameter;

c.2. 12.7 mm or more in length; *and*

c.3. Single convolution depth more than 2 mm.

2B229 Centrifugal multiplane balancing machines, fixed or portable, horizontal or vertical, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Centrifugal balancing machines designed for balancing flexible rotors having a length of 600 mm or more and having all of the following characteristics:

a.1. A swing or journal diameter of 75 mm or more;

a.2. Mass capability of from 0.9 to 23 kg; *and*

a.3. Capable of balancing speed of revolution more than 5000 r.p.m.;

b. Centrifugal balancing machines designed for balancing hollow cylindrical rotor components and having all of the following characteristics:

b.1. A journal diameter of 75 mm or more;

b.2. Mass capability of from 0.9 to 23 kg;

b.3. Capable of balancing to a residual imbalance of 0.01 kg mm/kg per plane or better; *and*

b.4. Belt drive type.

2B230 ''Pressure transducers'' which are capable of measuring absolute pressure at any point in the range 0 to 13 kPa, with pressure sensing elements made of or protected by nickel, nickel alloys with more than 60% nickel by weight, aluminum or aluminum alloys, having any of the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value.
Related Controls: N/A
Related Definitions: (1) Pressure transducers are devices that convert pressure measurements into an electrical signal. (2) For the purposes of this entry, ''accuracy'' includes non-linearity, hysteresis and repeatability at ambient temperature.
Items: a. A full scale of less than 13 kPa and an ''accuracy'' of better than +/−1% (full−scale); *or*

b. A full scale of 13 kPa or greater and an ''accuracy'' of better than +/−130 Pa.

2B231 Vacuum pumps with an input throat size of 380 mm or greater with a pumping speed of 15,000 liters/s or greater and capable of producing an ultimate vacuum better than 10^{-4} Torr (1.33×10^{-4} mbar).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: Vacuum pumps for gaseous diffusion separation process are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)
Related Definition: (1) The ultimate vacuum is determined at the input of the pump with the input of the pump blocked off. (2) The pumping speed is determined at the measurement point with nitrogen gas or air.
Items: The list of items controlled is contained in the ECCN heading.

2B232 Multistage light gas guns or other high-velocity gun systems (coil, electromagnetic, electrothermal, or other advanced systems) capable of accelerating projectiles to 2 km/s or greater.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value.
Related Controls: N/A.
Related Definitions: N/A.
Items: The list of items controlled is contained in the ECCN heading.

2B290 ''Numerically controlled'' machine tools not controlled by 2B001.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definition: N/A
Items: a. Turning machines or combination turning/milling machines that are capable of machining diameters greater than 2.5 meters.

b. Reserved.

2B350 Chemical manufacturing facilities and equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 3
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number.
Related Controls: The controls in this entry do not apply to equipment that is: (a) specially designed for use in civil applications (e.g., food processing, pulp and paper processing, or water purification); and (b) inappropriate, by the nature of its design, for use in storing, processing, producing or conducting and controlling the flow of chemical weapons precursors controlled by 1C350.
Related Definitions: For purposes of this entry the term ''chemical warfare agents'' are those agents subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121)
Items: a. Reaction vessels or reactors, with or without agitators, with total internal (geometric) volume greater than 0.1 m^3 (100 liters) and less than 20 m^3 (20,000 liters), where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
a.1. Alloys with more than 25% nickel and 20% chromium by weight;
a.2. Fluoropolymers;
a.3. Glass (including vitrified or enamelled coating or glass lining);
a.4. Nickel or alloys with more than 40% nickel by weight;
a.5. Tantalum or tantalum alloys;
a.6. Titanium or titanium alloys; *or*
a.7. Zirconium or zirconium alloys;
b. Agitators for use in reaction vessels or reactors where all surfaces of the agitator that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
b.1. Alloys with more than 25% nickel and 20% chromium by weight;
b.2. Fluoropolymers;
b.3. Glass (including vitrified or enamelled coatings or glass lining);
b.4. Nickel or alloys with more than 40% nickel by weight;
b.5. Tantalum or tantalum alloys;
b.6. Titanium or titanium alloys; *or*
b.7. Zirconium or zirconium alloys;
c. Storage tanks, containers or receivers with a total internal (geometric) volume greater than 0.1 m^3 (100 liters) where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
c.1. Alloys with more than 25% nickel and 20% chromium by weight;
c.2. Fluoropolymers;
c.3. Glass (including vitrified or enamelled coatings or glass lining);
c.4. Nickel or alloys with more than 40% nickel by weight;
c.5. Tantalum or tantalum alloys;
c.6. Titanium or titanium alloys; *or*
c.7. Zirconium or zirconium alloys;
d. Heat exchangers or condensers with a heat transfer surface area of less than 20 m^2, where all surfaces that comes in direct contact with the chemical(s) being processed are made from any of the following materials:
d.1. Alloys with more than 25% nickel and 20% chromium by weight;
d.2. Fluoropolymers;
d.3. Glass (including vitrified or enamelled coatings or glass lining);
d.4. Graphite;
d.5. Nickel or alloys with more than 40% nickel by weight;
d.6. Tantalum or tantalum alloys;
d.7. Titanium or titanium alloys; *or*
d.8. Zirconium or zirconium alloys;
e. Distillation or absorption columns of internal diameter greater than 0.1 m, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
e.1. Alloys with more than 25% nickel and 20% chromium by weight;
e.2. Fluoropolymers;
e.3. Glass (including vitrified or enamelled coatings or glass lining);
e.4. Graphite;
e.5. Nickel or alloys with more than 40% nickel by weight;
e.6. Tantalum or tantalum alloys;
e.7. Titanium or titanium alloys; *or*
e.8. Zirconium or zirconium alloys;
f. Remotely operated filling equipment in which all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:
f.1. Alloys with more than 25% nickels and 20% chromium by weight, or
f.2. Nickel or alloys with more than 40% nickel by weight;
g. Multiple seal valves incorporating a leak detection port, bellows-seal valves, non-return (check) valves or diaphragm valves, in which all surfaces that come in to direct contact with the chemical(s) being processed or contained are made from any of the following materials:
g.1. Alloys with more than 25% nickel and 20% chromium by weight;
g.2. Fluoropolymers;
g.3. Glass (including vitrified or enamelled coatings or glass lining);
g.4. Nickel or alloys with more than 40% nickel by weight;
g.5. Tantalum or tantalum alloys;
g.6. Titanium or titanium alloys; *or*
g.7. Zirconium or zirconium alloys;
h. Multi-walled piping incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:
h.1. Alloys with more than 25% nickel and 20% chromium by weight;
h.2. Fluoropolymers;
h.3. Glass (including vitrified or enamelled coatings or glass lining);
h.4. Graphite;
h.5. Nickel or alloys with more than 40% nickel by weight;
h.6. Tantalum or tantalum alloys;
h.7. Titanium or titanium alloys; *or*
h.8. Zirconium or zirconium alloys;
i. Multiple-seal, canned drive, magnetic drive, bellows or diaphragm pumps, with manufacturer's specified maximum flow-rate greater than 0.6 m^3/hour, or vacuum pumps with manufacturer's specified maximum flow-rate greater than 5 m^3/hour (under standard temperature (273 K (0°C)) and pressure (101.3 kPa) conditions), in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the following materials:
i.1. Alloys with more than 25% nickel and 20% chromium by weight;
i.2. Ceramics;
i.3. Ferrosilicon;
i.4. Fluoropolymers;
i.5. Glass (including vitrified or enamelled coatings or glass lining);
i.6. Graphite;
i.7. Nickel or alloys with more than 40% nickel by weight;
i.8. Tantalum or tantalum alloys;
i.9. Titanium or titanium alloys, or
i.10. Zirconium or zirconium alloys;
j. Incinerators designed to destroy chemical warfare agents, or chemical weapons precursors controlled by 1C350, having specially designed waste supply systems, special handling facilities and an average combustion chamber temperature greater than 1000°C in which all surfaces in the waste supply system that come into direct contact with the waste products are made from or lined with any of the following materials:
j.1. Alloys with more than 25% nickel and 20% chromium by weight;
j.2. Ceramics; *or*
j.3. Nickel or alloys with more than 40% nickel by weight.

2B351 Toxic gas monitoring systems and dedicated detectors therefor.

License Requirements

Reason for Control: CB, AT.

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 3
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. Designed for continuous operation and usable for the detection of chemical warfare agents, chemicals controlled by 1C350 or organic compounds containing phosphorus, sulphur, fluorine or chlorine, at concentrations of less than 0.3 mg/m^3; *or*
b. Designed for the detection of cholinesterase-inhibiting activity.

2B352 Equipment capable of use in handling biological materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 3
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: For purposes of this entry, isolators include flexible isolators,

dry boxes, anaerobic chambers and glove boxes.

Items: a. Complete containment facilities at P3 or P4 containment level;

Technical Note: P3 or P4 (BL3, BL4, L3, L4) containment levels are as specified in the WHO Laboratory Biosafety Manual (Geneva, 1983).

b. Fermenters capable of cultivation of pathogenic microorganisms, viruses, or for toxin production, without the propagation of aerosols, having a capacity equal to or greater than 100 liters.

Technical Note: Fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic microorganisms, without the propagation of aerosols, and having all of the following characteristics:

c.1. A flow rate greater than 100 liters per hour;

c.2. Components of polished stainless steel or titanium;

c.3. Double or multiple sealing joints within the steam containment area; *and*

c.4. Capable of *in situ* steam sterilization in a closed state.

Technical Note: Centrifugal separators include decanters.

d. Cross-flow filtration equipment capable of continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having all of the following characteristics:

d.1. Equal to or greater than 5 square meters;

d.2. Capable of *in situ* sterilization.

e. Steam sterilizable freeze-drying equipment with a condenser capacity greater than 50 kgs of ice in 24 hours but less than 1,000 kgs;

f. Equipment that incorporates or is contained in P3 or P4 containment housing, as follows:

f.1. Independently ventilated protective full or half suits;

f.2. Class III biological safety cabinets or isolators with similar performance standards;

g. Chambers designed for aerosol challenge testing with microorganisms, viruses, or toxins and having a capacity of 1 m^3 or greater.

2B991 Numerical control units for machine tools and ''numerically controlled'' machine tools, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Numerical control'' units for machine tools:

a.1. Having four interpolating axes that can be coordinated simultaneously for ''contouring control''; or

a.2. Having two or more axes that can be coordinated simultaneously for ''contouring control'' and a minimum programmable increment better (less) than 0.001 mm;

a.3. ''Numerical control'' units for machine tools having two, three or four interpolating axes that can be coordinated simultaneously for ''contouring control'', and capable of receiving directly (on-line) and processing computer-aided-design (CAD) data for internal preparation of machine instructions; *or*

b. ''Motion control boards'' specially designed for machine tools and having any of the following characteristics:

b.1. Interpolation in more than four axes;

b.2. Capable of ''real time processing'' of data to modify tool path, feed rate and spindle data, during the machining operation, by any of the following:

b.2.a. Automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data; *or*

b.2.b. ''Adaptive control'' with more than one physical variable measured and processed by means of a computing model (strategy) to change one or more machining instructions to optimize the process.

b.3. Capable of receiving and processing CAD data for internal preparation of machine instructions; *or*

c. ''Numerically controlled'' machine tools that, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous ''contouring control'' in two or more axes and that have both of the following characteristics:

c.1. Two or more axes that can be coordinated simultaneously for contouring control; *and*

c.2. ''Positioning accuracies'', with all compensations available:

c.2.a. Better than 0.020 mm along any linear axis (overall positioning) for grinding machines;

c.2.b. Better than 0.020 mm along any linear axis (overall positioning) for milling machines; *or*

c.2.c. Better than 0.020 mm along any linear axis (overall positioning) for turning machines; *or*

d. Machine tools, as follows, for removing or cutting metals, ceramics or composites, that, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous ''contouring control'' in two or more axes:

d.1. Machine tools for turning, grinding, milling or any combination thereof, having two or more axes that can be coordinated simultaneously for ''contouring control'' and having any of the following characteristics:

d.1.a. One or more contouring ''tilting spindles'';

Note: 2B991.d.1.a. applies to machine tools for grinding or milling only.

d.1.b. ''Camming'' (axial displacement) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

Note: 2B991.d.1.b. applies to machine tools for turning only.

d.1.c. ''Run out'' (out-of-true running) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

d.1.d. The ''positioning accuracies'', with all compensations available, are less (better) than: 0.001° on any rotary axis;

d.2. Electrical discharge machines (EDM) of the wire feed type that have five or more axes that can be coordinated simultaneously for ''contouring control''.

2B992 Non-''numerically controlled'' machine tools for generating optical quality surfaces, and specially designed components therefor.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. Turning machines using a single point cutting tool and having all of the following characteristics:

a.1. Slide positioning accuracy less (better) than 0.0005 mm per 300 mm of travel;

a.2. Bidirectional slide positioning repeatability less (better) than 0.00025 mm per 300 mm of travel;

a.3. Spindle ''run out'' and ''camming'' less (better) than 0.0004 mm total indicator reading (TIR);

a.4. Angular deviation of the slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, TIR, over full travel; *and*

a.5. Slide perpendicularity less (better) than 0.001 mm per 300 mm of travel;

Technical Note: The bidirectional slide positioning repeatability (R) of an axis is the maximum value of the repeatability of positioning at any position along or around the axis determined using the procedure and under the conditions specified in part 2.11 of ISO 230/2: 1988.

b. Fly cutting machines having all of the following characteristics:

b.1. Spindle ''run out'' and ''camming'' less (better) than 0.0004 mm TIR; *and*

b.2. Angular deviation of slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, TIR, over full travel.

2B993 Gearmaking and/or finishing machinery not controlled by 2B003 capable of producing gears to a quality level of better than AGMA 11.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B996 Dimensional inspection or measuring systems or equipment not controlled by 2B006.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. Manual dimensional inspection machines, having both of the following characteristics:

a.1. Two or more axes; *and*

a.2. A measurement uncertainty equal to or less (better) than (3 + L/300) micrometer in any axes (L measured length in mm);

b. Systems for simultaneous linear-angular inspection of hemishells, having both of the following characteristics:

b.1. ''Measurement uncertainty'' along any linear axis equal to or less (better) than 3.5 micrometer per 5 mm; *and*

b.2. ''Angular position deviation'' equal to or less (better) than 0.02°;

2B997 ''Robots'' not controlled by 2B007 or 2B207 that are capable of employing feedback information in real-time processing from one or more sensors to generate or modify ''programs'' or to generate or modify numerical program data.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2B998 Assemblies, units or inserts specially designed for machine tools controlled by 2B991, or for equipment controlled by 2B993, 2B996 or 2B997.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control measuring interferometer systems, without closed or open loop feedback, containing a laser to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.
Related Definition: N/A
Items: a. Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with radial (''run out'') or axial (''camming'') axis motion in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

b. Single point diamond cutting tool inserts, having all of the following characteristics:

b.1. Flawless and chip-free cutting edge when magnified 400 times in any direction;

b.2. Cutting radius from 0.1 to 5 mm inclusive; *and*

b.3. Cutting radius out-of-roundness less (better) than 0.002 mm TIR.

c. Specially designed printed circuit boards with mounted components capable of upgrading, according to the manufacturer's specifications, ''numerical control'' units, machine tools or feedback devices to or above the levels specified in ECCNs 2B991, 2B993, 2B996, 2B997, or 2B998.

C. Materials [Reserved]

D. Software

2D001 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 2A001 or 2B001 to 2B009.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' for equipment controlled by 2B004 and 2B009 for MT reasons.	MT Column 1
NP applies to specially designed or modified ''software'' for equipment controlled by 2B001 for NP reasons, and to specially designed ''software'' for equipment controlled by 2B004, 2B006, 2B007, or 2B009 for NP reasons.	NP Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: See also 2D101 and 2D201
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D002 ''Software'' for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a ''numerical control'' unit, capable of any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
NP applies to entire entry, except 2D002.b.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: (1) See also 2D202. (2) This entry does not control ''software'' specially designed or modified for the operation of machine tools not controlled by Category 2.
Related Definitions: N/A
Items: a. Coordinating simultaneously more than 4 axes for ''contouring control''; *or*

b. ''Real time processing'' of data to modify tool path, feed rate and spindle data, during the machining operation, by any of the following:

b.1. Automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data; *or*

b.2. ''Adaptive control'' with more than one physical variable measured and processed by means of a computing model (strategy) to change one or more machining instructions to optimize the process.

2D018 ''Software'' for the ''development'', ''production'' or ''use'' of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' for equipment controlled by 2B018 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D101 ''Software'' specially designed for the ''use'' of equipment controlled by 2B104, 2B109 or 2B116.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 9D004
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D201 ''Software'' specially designed for the ''use'' of equipment controlled by 2B204, 2B206, 2B207, 2B209, 2B227 or 2B229.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D202 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 2B201.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D290 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of items controlled by 2A290, 2A291, 2A292, 2A293, or 2B290.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D991 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of equipment controlled by 2B991, 2B993, or 2B996, 2B997, and 2B998.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2D992. Specific ''software'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Software'' to provide ''adaptive control'' and having both of the following characteristics:

a.1. For ''flexible manufacturing units'' (FMUs) which consist at least of equipment described in b.1 and b.2 of the definition of ''flexible manufacturing unit'' contained in part 772 of the EAR; *and*

a.2. Capable of generating or modifying, in ''real time processing'', programs or data by using the signals obtained simultaneously by means of at least two detection techniques, such as:

a.2.a. Machine vision (optical ranging);

a.2.b. Infrared imaging;

a.2.c. Acoustical imaging (acoustical ranging);

a.2.d. Tactile measurement;

a.2.e. Inertial positioning;

a.2.f. Force measurement; *and*

a.2.g. Torque measurement.

Note: 2D992.a does not control ''software'' which only provides rescheduling of functionally identical equipment within ''flexible manufacturing units'' using pre-stored part programs and a pre-stored strategy for the distribution of the part programs.

b. Reserved.

2D994 ''Software'' specially designed for the ''development'' or ''production'' of portable electric generators controlled by 2A994.

License Requirements

Reason for Control: AT
Control(s)

AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya, and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transhipments to *Iran* must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 742.8 and § 746.7 for additional information on this requirement.)

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

2E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment or ''software'' controlled by 2A (except 2A991, 2A993, or 2A994), 2B (except 2B991, 2B993, 2B996, 2B997, or 2B998), or 2D (except 2D991, 2D992, or 2D994).

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	*Country Chart*
NS applies to ''technology'' for items controlled by 2A001, 2B001 to 2B009, 2D001 or 2D002	NS Column 1
MT applies to ''technology'' for items controlled by 2B004, 2B009, 2B018, 2B104, 2B109, 2B116, 2D001 or 2D101 for MT reasons	MT Column 1
NP applies to ''technology'' for items controlled by 2B001, 2B004, 2B006, 2B007 2B009, 2B104, 2B109, 2B204 2B206, 2B207, 2B209, 2B225, 2B226, 2B228, 2B229, 2B231, 2D001, 2D002, or 2D201 for NP reasons	NP Column 1
NP applies to ''technology'' for equipment controlled by 2A290	NP Column 2

Control(s)	*Country Chart*
CB applies to ''technology'' for equipment controlled by 2B350 to 2B352	CB Column 3
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: N/A
Related Controls: See also 2E101, 2E201, and 2E301
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E002 ''Technology'' according to the General Technology Note for the ''production'' of equipment controlled by 2A (except 2A991, 2A993, or 2A994), or 2B (except 2B991, 2B993, 2B996, 2B997, or 2B998).

License Requirements

Reason for Control: NS, MT, NP, CB, AT

Control(s)	*Country Chart*
NS applies to ''technology'' for equipment controlled by 2A001, 2B001 to 2B009	NS Column 1
MT applies to ''technology'' for equipment controlled by 2B004, 2B009, 2B018, 2B104, 2B109, and 2B116 for MT reasons	MT Column 1
NP applies to ''technology'' for equipment controlled by 2B001, 2B004, 2B006, 2B007, 2B009, 2B104, 2B109, 2B204, 2B206, 2B207, 2B209, 2B225, 2B226, 2B228, 2B229, or 2B231 for NP reasons	NP Column 1
NP applies to ''technology'' for equipment controlled by 2A290	NP Column 2
CB applies to ''technology'' for equipment controlled by 2B350 to 2B352	CB Column 3
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E003 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes, except 2E003.a, .b, .e and .f

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Technology'' for the ''development'' of interactive graphics as an integrated part in ''numerical control'' units for preparation or modification of part programs;

b. ''Technology'' for metal-working manufacturing processes, as follows:

b.1. ''Technology'' for the design of tools, dies or fixtures specially designed for any of the following processes:

b.1.a. ''Superplastic forming'';

b.1.b. ''Diffusion bonding''; *or*

b.1.c. ''Direct-acting hydraulic pressing'';

b.2. Technical data consisting of process methods or parameters as listed below used to control:

b.2.a. ''Superplastic forming'' of aluminum alloys, titanium alloys or ''superalloys'':

b.2.a.1. Surface preparation;

b.2.a.2. Strain rate;

b.2.a.3. Temperature;

b.2.a.4. Pressure;

b.2.b. ''Diffusion bonding'' of ''superalloys'' or titanium alloys:

b.2.b.1. Surface preparation;

b.2.b.2. Temperature;

b.2.b.3. Pressure;

b.2.c. ''Direct-acting hydraulic pressing'' of aluminum alloys or titanium alloys:

b.2.c.1. Pressure;

b.2.c.2. Cycle time;

b.2.d. ''Hot isostatic densification'' of titanium alloys, aluminum alloys or ''superalloys'':

b.2.d.1. Temperature;

b.2.d.2. Pressure;

b.2.d.3. Cycle time;

c. ''Technology'' for the ''development'' or ''production'' of hydraulic stretch-forming machines and dies therefor, for the manufacture of airframe structures;

d. ''Technology'' for the ''development'' of generators of machine tool instructions (e.g., part programs) from design data residing inside ''numerical control'' units;

e. ''Technology for the development'' of integration ''software'' for incorporation of expert systems for advanced decision support of shop floor operations into ''numerical control'' units;

f. ''Technology'' for the application of inorganic overlay coatings or inorganic surface modification coatings (specified in column 3 of the following table) to non-electronic substrates (specified in column 2 of the following table), by processes specified in column 1 of the following table and defined in the Technical Note.

CATEGORY 2E—MATERIALS PROCESSING TABLE; DEPOSITION TECHNIQUES

[The numbers in parentheses refer to the Notes following this Table]

1. *Coating Process* (1)	2. *Substrate*	3. *Resultant Coating*
A. Chemical Vapor Deposition (CVD)	''Superalloys''	Aluminides for internal passages
	Ceramics and Low-expansion glasses (14)	Silicides Carbides Dielectric layers (15)
	Carbon-carbon, Ceramic, and Metal ''matrix'' ''composites''.	Silicides Carbides Refractory metals Mixtures thereof (4) Dielectric layers (15)
	Cemented tungsten carbide (16), Silicon carbide.	Aluminides Alloyed aluminides (2) Carbides Tungsten Mixtures thereof (4) Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15)

CATEGORY 2E—MATERIALS PROCESSING TABLE; DEPOSITION TECHNIQUES—Continued

[The numbers in parentheses refer to the Notes following this Table]

1. *Coating Process* (1)	2. *Substrate*	3. *Resultant Coating*
	Sensor window materials (9)	Dielectric layers (15)
B. Thermal-Evaporation Physical Vapor Deposition (TE–PVD)		
1. Physical Vapor Deposition (PVD): Electron-Beam (EB–PVD).	''Superalloys''	Alloyed silicides Alloyed aluminides (2) MCrAlX (5) Modified zirconia (12) Silicides Aluminides Mixtures thereof (4)
	Ceramics and Low-expansion glasses (14)	Dielectric layers (15)
	Corrosion resistant steel (7)	MCrAlX (5) Modified zirconia (12) Mixtures thereof (4)
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Silicides Carbides Refractory metals Mixtures thereof (4) Dielectric layers (15)
	Cemented tungsten carbide (16), Silicon carbide.	Carbides Tungsten Mixtures thereof (4) Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15) Borides
	Sensor window materials (9)	Dielectric layers (15)
	Titanium alloys (13)	Borides Nitrides
2. Ion assisted resistive heating Physical Vapor Deposition (Ion Plating).	Ceramics and Low-expansion glasses (14)	Dielectric layers (15)
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Dielectric layers (15)
	Cemented tungsten carbide (16) Silicon carbide.	Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric Layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15)
	Sensor window materials (9)	Dielectric Layers (15)
3. Physical Vapor Deposition: ''laser'' evaporation.	Ceramics and Low-expansion glasses (14)	Silicides Dielectric layers (15)
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Dielectric layers (15)
	Cemented tungsten carbide (16), Silicon carbide.	Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15)
	Sensor window materials (9)	Dielectric layers (15) Diamond-like carbon
4. Physical Vapor Deposition: cathodic arc discharge.	''Superalloys''	Alloyed silicides Alloyed Aluminides (2) MCrAlX (5)
	Polymers (11) and Organic ''matrix'' ''composites''.	Borides Carbides Nitrides
C. Pack cementation (see A above for out-of-pack cementation) (10).	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Silicides Carbides Mixtures thereof (4)
	Titanium alloys (13)	Silicides Aluminides Alloyed aluminides (2)
	Refractory metals and alloys (8)	Silicides Oxides

CATEGORY 2E—MATERIALS PROCESSING TABLE; DEPOSITION TECHNIQUES—Continued

[The numbers in parentheses refer to the Notes following this Table]

1. *Coating Process* (1)	2. *Substrate*	3. *Resultant Coating*
D. Plasma spraying	''Superalloys''	MCrAlX (5)
		Modified zirconia (12)
		Mixtures Thereof (4)
		Abradable
		Nickel-Graphite
		Abradable
		Ni-Cr-Al-
		Bentonite
		Abradable
		Al-Si-Polyester
		Alloyed aluminides (2)
	Aluminum alloys (6)	MCrAlX (5)
		Modified zirconia (12)
		Silicides
		Mixtures thereof (4)
	Refractory metals and alloys (8)	Aluminides
		Silicides
		Carbides
	Corrosion resistant steel (7)	Modified zirconia (12)
		Mixtures thereof (4)
	Titanium alloys (13)	Carbides
		Aluminides
		Silicides
		Alloyed aluminides (2)
		Abradable
		Nickel-Graphite
		Abradable
		Ni-Cr-Al-
		Bentonite
		Abradable
		Al-Si-Polyester
E. Slurry Deposition	Refractory metals alloys (8)	Fused silicides
		Fused aluminides except for resistance heating elements
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Silicides
		Carbides
		Mixtures thereof (4)
F. Sputter Deposition	''Superalloys''	Alloyed silicides
		Alloyed aluminides (2)
		Noble metal modified aluminides (3)
		MCrAlX (5)
		Modified zirconia (12)
		Platinum
		Mixtures thereof (4)
	Ceramics and Low-expansion glasses (14)	Silicides
		Platinum
		Mixtures thereof (4)
		Dielectric layers (15)
	Titanium alloys (13)	Borides
		Nitrides
		Oxides
		Silicides
		Aluminides
		Alloyed aluminides (2)
		Carbides
	Carbon-carbon, Ceramic and Metal ''matrix'' ''Composites''.	Silicides
		Carbides
		Refractory metals
		Mixtures thereof (4)
		Dielectric layers (15)
	Cemented tungsten carbide (16), Silicon carbide.	Carbides
		Tungsten
		Mixtures thereof (4)
		Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Borides
		Dielectric layers (15)
	Sensor window materials (9)	Dielectric layers (15)

CATEGORY 2E—MATERIALS PROCESSING TABLE; DEPOSITION TECHNIQUES—Continued

[The numbers in parentheses refer to the Notes following this Table]

1. *Coating Process* (1)	2. *Substrate*	3. *Resultant Coating*
	Refractory metals and alloys (8)	Aluminides Silicides Oxides Carbides
G. Ion Implantation	High temperature bearing steels	Additions of Chromium, Tantalum, or Niobium (Columbium)
	Titanium alloys (13)	Borides Nitrides
	Beryllium and Beryllium alloys	Borides
	Cemented tungsten carbide (16)	Carbides Nitrides

Notes to Table on Deposition Techniques

1. The term 'coating process' includes coating repair and refurbishing as well as original coating.

2. The term 'alloyed aluminide coating' includes single or multiple-step coatings in which an element or elements are deposited prior to or during application of the aluminide coating, even if these elements are deposited by another coating process. It does not, however, include the multiple use of single-step pack cementation processes to achieve alloyed aluminides.

3. The term 'noble metal modified aluminide' coating includes multiple-step coatings in which the noble metal or noble metals are laid down by some other coating process prior to application of the aluminide coating.

4. Mixtures consist of infiltrated material, graded compositions, co-deposits and multilayer deposits and are obtained by one or more of the coating processes specified in the Table.

5. MCrAlX refers to a coating alloy where M equals cobalt, iron, nickel or combinations thereof and X equals hafnium, yttrium, silicon, tantalum in any amount or other intentional additions over 0.01 weight percent in various proportions and combinations, except:

a. CoCrAlY coatings which contain less than 22 weight percent of chromium, less than 7 weight percent of aluminum and less than 2 weight percent of yttrium;

b. CoCrAlY coatings which contain 22 to 24 weight percent of chromium, 10 to 12 weight percent of aluminum and 0.5 to 0.7 weight percent of yttrium; *or*

c. NiCrAlY coatings which contain 21 to 23 weight percent of chromium, 10 to 12 weight percent of aluminum and 0.9 to 1.1 weight percent of yttrium.

6. The term 'aluminum alloys' refers to alloys having an ultimate tensile strength of 190 MPa or more measured at 293 K (20° C).

7. The term 'corrosion resistant steel' refers to AISI (American Iron and Steel Institute) 300 series or equivalent national standard steels.

8. Refractory metals consist of the following metals and their alloys: niobium (columbium), molybdenum, tungsten and tantalum.

9. Sensor window materials, as follows: alumina, silicon, germanium, zinc sulphide, zinc selenide, gallium arsenide and the following metal halides: potassium iodide, potassium fluoride, or sensor window materials of more than 40 mm diameter for thallium bromide and thallium chlorobromide.

10. ''Technology'' for single-step pack cementation of solid airfoils is not controlled by this Category.

11. Polymers, as follows: polyimide, polyester, polysulfide, polycarbonates and polyurethanes.

12. Modified zirconia refers to additions of other metal oxides, (e.g., calcia, magnesia, yttria, hafnia, rare earth oxides) to zirconia in order to stabilize certain crystallographic phases and phase compositions. Thermal barrier coatings made of zirconia, modified with calcia or magnesia by mixing or fusion, are not controlled.

13. Titanium alloys refers to aerospace alloys having an ultimate tensile strength of 900 MPa or more measured at 293 K (20° C).

14. Low-expansion glasses refers to glasses which have a coefficient of thermal expansion of 1×10^{-7} K^{-1} or less measured at 293 K (20° C).

15. Dielectric layers are coatings constructed of multi-layers of insulator materials in which the interference properties of a design composed of materials of various refractive indices are used to reflect, transmit or absorb various wavelength bands. Dielectric layers refers to more than four dielectric layers or dielectric/metal ''composite'' layers.

16. Cemented tungsten carbide does not include cutting and forming tool materials consisting of tungsten carbide/(cobalt, nickel), titanium carbide/(cobalt, nickel), chromium carbide/nickel-chromium and chromium carbide/nickel.

Technical Note to Table on Deposition Techniques

Processes specified in Column 1 of the Table are defined as follows:

a. Chemical Vapor Deposition (CVD) is an overlay coating or surface modification coating process wherein a metal, alloy, ''composite'', dielectric or ceramic is deposited upon a heated substrate. Gaseous reactants are decomposed or combined in the vicinity of a substrate resulting in the deposition of the desired elemental, alloy or compound material on the substrate. Energy for this decomposition or chemical reaction process may be provided by the heat of the substrate, a glow discharge plasma, or ''laser'' irradiation.

Note 1: CVD includes the following processes: directed gas flow out-of-pack deposition, pulsating CVD, controlled nucleation thermal decomposition (CNTD), plasma enhanced or plasma assisted CVD processes.

Note 2: Pack denotes a substrate immersed in a powder mixture.

Note 3: The gaseous reactants used in the out-of-pack process are produced using the same basic reactions and parameters as the pack cementation process, except that the substrate to be coated is not in contact with the powder mixture.

b. Thermal Evaporation-Physical Vapor Deposition (TE–PVD) is an overlay coating process conducted in a vacuum with a pressure less than 0.1 Pa wherein a source of thermal energy is used to vaporize the coating material. This process results in the condensation, or deposition, of the evaporated species onto appropriately positioned substrates. The addition of gases to the vacuum chamber during the coating process to synthesize compound coatings is an ordinary modification of the process. The use of ion or electron beams, or plasma, to activate or assist the coating's deposition is also a common modification in this technique. The use of monitors to provide in-process measurement of optical characteristics and thickness of coatings can be a feature of these processes. Specific TE–PVD processes are as follows:

1. Electron Beam PVD uses an electron beam to heat and evaporate the material which forms the coating;

2. Resistive Heating PVD employs electrically resistive heating sources capable of producing a controlled and uniform flux of evaporated coating species;

3. ''Laser'' Evaporation uses either pulsed or continuous wave ''laser'' beams to heat the material which forms the coating;

4. Cathodic Arc Deposition employs a consumable cathode of the material which forms the coating and has an arc discharge established on the surface by a momentary contact of a ground trigger. Controlled motion of arcing erodes the cathode surface creating a highly ionized plasma. The anode can be either a cone attached to the periphery of the cathode, through an insulator, or the chamber. Substrate biasing is used for non line-of-sight deposition.

Note: This definition does not include random cathodic arc deposition with non-biased substrates.

c. Ion Plating is a special modification of a general TE–PVD process in which a plasma or an ion source is used to ionize the species to be deposited, and a negative bias is applied to the substrate in order to facilitate the extraction of the species to be deposited from the plasma. The introduction of reactive species, evaporation of solids within the process chamber, and the use of monitors to provide in-process measurement of optical characteristics and thicknesses of coatings are ordinary modifications of the process.

d. Pack Cementation is a surface modification coating or overlay coating process wherein a substrate is immersed in a powder mixture (a pack), that consists of:

1. The metallic powders that are to be deposited (usually aluminum, chromium, silicon or combinations thereof);

2. An activator (normally a halide salt); *and*

3. An inert powder, most frequently alumina. The substrate and powder mixture is contained within a retort which is heated to between 1,030 K (757° C) to 1,375 K (1,102° C) for sufficient time to deposit the coating.

e. Plasma Spraying is an overlay coating process wherein a gun (spray torch) which produces and controls a plasma accepts powder or wire coating materials, melts them and propels them towards a substrate, whereon an integrally bonded coating is formed. Plasma spraying constitutes either low pressure plasma spraying or high velocity plasma spraying carried out underwater.

Note 1: Low pressure means less than ambient atmospheric pressure.

Note 2: High velocity refers to nozzle-exit gas velocity exceeding 750 m/s calculated at 293 K (20° C) at 0.1 MPa.

f. Slurry Deposition is a surface modification coating or overlay coating process wherein a metallic or ceramic powder with an organic binder is suspended in a liquid and is applied to a substrate by either spraying, dipping or painting, subsequent air or oven drying, and heat treatment to obtain the desired coating.

g. Sputter Deposition is an overlay coating process based on a momentum transfer phenomenon, wherein positive ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on an appropriately positioned substrate.

Note 1: The Table refers only to triode, magnetron or reactive sputter deposition which is used to increase adhesion of the coating and rate of deposition and to radio frequency (RF) augmented sputter deposition used to permit vaporization of non-metallic coating materials.

Note 2: Low-energy ion beams (less than 5 keV) can be used to activate the deposition.

h. Ion Implantation is a surface modification coating process in which the element to be alloyed is ionized, accelerated through a potential gradient and implanted into the surface region of the substrate. This includes processes in which ion implantation is performed simultaneously with electron beam physical vapor deposition or sputter deposition.

Accompanying Technical Information to Table on Deposition Techniques

1. ''Technology'' for pretreatments of the substrates listed in the Table, as follows:

a. Chemical stripping and cleaning bath cycle parameters, as follows:

1. Bath composition;

a. For the removal of old or defective coating corrosion product or foreign deposits;

b. For preparation of virgin substrates;

2. Time in bath;

3. Temperature of bath;

4. Number and sequences of wash cycles;

b. Visual and macroscopic criteria for acceptance of the cleaned part;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Temperature for heat treatment;

3. Time of heat treatment;

d. Substrate surface preparation parameters, as follows:

1. Grit blasting parameters, as follows:

a. Grit composition;

b. Grit size and shape;

c. Grit velocity;

2. Time and sequence of cleaning cycle after grit blast;

3. Surface finish parameters;

e. Masking technique parameters, as follows:

1. Material of mask;

2. Location of mask;

2. ''Technology'' for in situ quality assurance techniques for evaluation of the coating processes listed in the Table, as follows:

a. Atmosphere parameters, as follows:

1. Composition of the atmosphere;

2. Pressure of the atmosphere;

b. Time parameters;

c. Temperature parameters;

d. Thickness parameters;

e. Index of refraction parameters;

3. ''Technology'' for post deposition treatments of the coated substrates listed in the Table, as follows:

a. Shot peening parameters, as follows:

1. Shot composition;

2. Shot size;

3. Shot velocity;

b. Post shot peening cleaning parameters;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Time-temperature cycles;

d. Post heat treatment visual and macroscopic criteria for acceptance of the coated substrates;

4. ''Technology'' for quality assurance techniques for the evaluation of the coated substrates listed in the Table, as follows:

a. Statistical sampling criteria;

b. Microscopic criteria for:

1. Magnification;

2. Coating thickness, uniformity;

3. Coating integrity;

4. Coating composition;

5. Coating and substrates bonding;

6. Microstructural uniformity.

c. Criteria for optical properties assessment:

1. Reflectance;

2. Transmission;

3. Absorption;

4. Scatter;

5. ''Technology'' and parameters related to specific coating and surface modification processes listed in the Table, as follows:

a. For Chemical Vapor Deposition:

1. Coating source composition and formulation;

2. Carrier gas composition;

3. Substrate temperature;

4. Time-temperature-pressure cycles;

5. Gas control and part manipulation;

b. For Thermal Evaporation—Physical Vapor Deposition:

1. Ingot or coating material source composition;

2. Substrate temperature;

3. Reactive gas composition;

4. Ingot feed rate or material vaporization rate;

5. Time-temperature-pressure cycles;

6. Beam and part manipulation;

7. ''Laser'' parameters, as follows:

a. Wave length;

b. Power density;

c. Pulse length;

d. Repetition ratio;

e. Source;

f. Substrate orientation;

c. For Pack Cementation:

1. Pack composition and formulation;

2. Carrier gas composition;

3. Time-temperature-pressure cycles;

d. For Plasma Spraying:

1. Powder composition, preparation and size distribution;

2. Feed gas composition and parameters;

3. Substrate temperature;

4. Gun power parameters;

5. Spray distance;

6. Spray angle;

7. Cover gas composition, pressure and flow rates;

8. Gun control and part manipulation;

e. For Sputter Deposition:

1. Target composition and fabrication;

2. Geometrical positioning of part and target;

3. Reactive gas composition;

4. Electrical bias;

5. Time-temperature-pressure cycles;

6. Triode power;

7. Part manipulation;

f. For Ion Implantation:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles.

g. For Ion Plating:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles;

5. Coating material feed rate and vaporization rate;

6. Substrate temperature;

7. Substrate bias parameters.

2E018 "Technology" for the "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to "technology" for equipment controlled by 2B018 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E101 "Technology" according to the General Technology Note for the "use" of equipment or "software" controlled by 2B004, 2B009, 2B104, 2B109, 2B116, or 2D101.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
NP applies to 2B004, 2B104, 2B109, and 2B116.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: This entry controls only "technology" for 2B009 for spin forming machines combining the functions of spin forming and flow forming, and flow forming machines.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E201 "Technology" according to the General Technology Note for the "use" of equipment or "software" controlled by 2A225, 2A226, 2B001, 2B006, 2B007.b, 2B007.c, 2B008, 2B009, 2B201, 2B204, 2B207, 2B209, 2B225 to 2B232, 2D201 or 2D202.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E290 "Technology" according to the General Technology Note for the "use" of equipment controlled by 2A290, 2A291, 2A292, 2A293, and 2B290.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

2E301 "Technology" according to the "General Technology Note" for "use" of items controlled by 2B350, 2B351 and 2B352.

License Requirements

Reason for Control: CB, AT

Control(s)	*Country Chart*
CB applies to entire entry	CB Column 3
AT applies to entire entry	AT Column1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The lists of items controlled are contained in the ECCN headings.

2E991 "Technology" for the "use" of equipment controlled by 2B991, 2B993, 2B996, or 2B997.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A.
Related Definitions: N/A.
Items: The list of items controlled is contained in the ECCN heading.

2E994 "Technology" for the "use" of portable electric generators controlled by 2A994.

License Requirements

Reason for Control: AT
Control(s): AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya, and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information

Note: Exports from the U.S. and transhipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 742.8 and § 746.7 of the EAR for additional information on this requirement.)

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A.
Related Definitions: N/A.
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere controlled by this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 3—Electronics

A. Systems, Equipment and Components

Note 1: The control status of equipment and components described in 3A001 or 3A002, other than those described in 3A001.a.3 to 3A001.a.10 or 3A001.a.12, which are specially designed for or which have the same functional characteristics as other equipment is determined by the control status of the other equipment.

Note 2: The control status of integrated circuits described in 3A001.a.3 to 3A001.a.9 or 3A001.a.12 that are unalterably programmed or designed for a specific function for other equipment is determined by the control status of the other equipment.

N.B.: When the manufacturer or applicant cannot determine the control status of the other equipment, the control status of the integrated circuits is determined in 3A001.a.3 to 3A001.a.9 and 3A001.a.12. If the integrated circuit is a silicon-based "microcomputer microcircuit" or microcontroller microcircuit described in 3A001.a.3 having an operand (data) word length of 8 bit or less, the control status of the integrated circuit is determined in 3A001.a.3.

3A001 Electronic components, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to 3A001.a.1.a	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A for MT; $1500: 3A001.c;$3000: 3A001.b.1, b.2, b.3, .d, .e and .f; $5000: 3A001.a, and .b.4 to b.7
GBS: Yes, except 3A001.a.1.a, b.1, b.3 to b.7, .c to .f

CIV: Yes, except 3A001.a.1, a.2, a.3.a (for processors with a CTP greater than 500 Mtops), a.5, a.6, a.9, a.10, and a.12, .b, .c, .d, .e, and .f

List of Items Controlled

Unit: Number

Related Controls: See also 3A101, 3A201, and 3A991

Related Definitions: For the purposes of integrated circuits in 3A001.a.1, 5×103 Gy(Si)=5×105 Rads (Si); 5×106 Gy (Si)/s=5×108 Rads (Si)/s.

Items: a. General purpose integrated circuits, as follows:

Note 1: The control status of wafers (finished or unfinished), in which the function has been determined, is to be evaluated against the parameters of 3A001.a.

Note 2: Integrated circuits include the following types: ''Monolithic integrated circuits''; ''Hybrid integrated circuits''; ''Multichip integrated circuits''; ''Film type integrated circuits'', including silicon-on-sapphire integrated circuits; ''Optical integrated circuits''.

a.1. Integrated circuits, designed or rated as radiation hardened to withstand any of the following:

a.1.a. A total dose of 5×10^3 Gy (Si), or higher; *or*

a.1.b. A dose rate upset of 5×10^6 Gy (Si)/s, or higher;

a.2. Integrated circuits described in 3A001.a.3 to 3A001.a.10 or 3A001.a.12, electrical erasable programmable read-only memories (EEPROMs), flash memories and static random-access memories (SRAMs), having any of the following:

a.2.a. Rated for operation at an ambient temperature above 398 K (125° C);

a.2.b. Rated for operation at an ambient temperature below 218 K (−55° C); *or*

a.2.c. Rated for operation over the entire ambient temperature range from 218 K (−55° C) to 398 K (125° C);

Note: 3A001.a.2 does not apply to integrated circuits for civil automobiles or railway train applications.

a.3. ''Microprocessor microcircuits'', ''micro-computer microcircuits'' and microcontroller microcircuits, having any of the following characteristics:

Note: 3A001.a.3 includes digital signal processors, digital array processors and digital coprocessors.

a.3.a. A ''composite theoretical performance'' (''CTP'') of 260 million theoretical operations per second (Mtops) or more and an arithmetic logic unit with an access width of 32 bit or more;

a.3.b. Manufactured from a compound semiconductor and operating at a clock frequency exceeding 40 MHz; *or*

a.3.c. More than one data or instruction bus or serial communication port for external interconnection in a parallel processor with a transfer rate exceeding 2.5 Mbyte/s;

a.4. Storage integrated circuits manufactured from a compound semiconductor;

a.5. Analog-to-digital and digital-to-analog converter integrated circuits, as follows:

a.5.a. Analog-to-digital converters having any of the following:

a.5.a.1. A resolution of 8 bit or more, but less than 12 bit, with a total conversion time to maximum resolution of less than 10 ns;

a.5.a.2. A resolution of 12 bit with a total conversion time to maximum resolution of less than 200 ns; *or*

a.5.a.3. A resolution of more than 12 bit with a total conversion time to maximum resolution of less than 2 µs;

a.5.b. Digital-to-analog converters with a resolution of 12 bit or more, and a ''settling time'' of less than 10 ns;

a.6. Electro-optical and ''optical integrated circuits'' designed for ''signal processing'' having all of the following:

a.6.a. One or more than one internal ''laser'' diode;

a.6.b. One or more than one internal light detecting element; *and*

a.6.c. Optical waveguides;

a.7. Field programmable gate arrays having any of the following:

a.7.a. An equivalent usable gate count of more than 30,000 (2 input gates); *or*

a.7.b. A typical ''basic gate propagation delay time'' of less than 0.4 ns;

a.8. Field programmable logic arrays having any of the following:

a.8.a. An equivalent usable gate count of more than 30,000 (2 input gates); *or*

a.8.b. A toggle frequency exceeding 133 MHz;

a.9. Neural network integrated circuits;

a.10. Custom integrated circuits for which the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

a.10.a. More than 208 terminals;

a.10.b. A typical ''basic gate propagation delay time'' of less than 0.35 ns; *or*

a.10.c. An operating frequency exceeding 3 GHz;

a.11. Digital integrated circuits, other than those described in 3A001.a.3 to 3A001.a.10 and 3A001.a.12, based upon any compound semiconductor and having any of the following:

a.11.a. An equivalent gate count of more than 300 (2 input gates); *or*

a.11.b. A toggle frequency exceeding 1.2 GHz;

a.12. Fast Fourier Transform (FFT) processors having any of the following:

a.12.a. A rated execution time for a 1,024 point complex FFT of less than 1 ms;

a.12.b. A rated execution time for an N-point complex FFT of other than 1,024 points of less than N log2 N /10,240 ms, where N is the number of points; *or*

a.12.c. A butterfly throughput of more than 5.12 MHz;

b. Microwave or millimeter wave components, as follows:

b.1. Electronic vacuum tubes and cathodes, as follows:

Note: 3A001.b.1 does not control tubes designed or rated to operate in the ITU allocated bands at frequencies not exceeding 31 GHz.

b.1.a. Travelling wave tubes, pulsed or continuous wave, as follows:

b.1.a.1. Operating at frequencies higher than 31 GHz;

b.1.a.2. Having a cathode heater element with a turn on time to rated RF power of less than 3 seconds;

b.1.a.3. Coupled cavity tubes, or derivatives thereof, with an ''instantaneous bandwidth'' of more than 7% or a peak power exceeding 2.5 kW;

b.1.a.4. Helix tubes, or derivatives thereof, with any of the following characteristics:

b.1.a.4.a. An ''instantaneous bandwidth'' of more than one octave, and average power (expressed in kW) times frequency (expressed in GHz) of more than 0.5;

b.1.a.4.b. An ''instantaneous bandwidth'' of one octave or less, and average power (expressed in kW) times frequency (expressed in GHz) of more than 1; *or*

b.1.a.4.c. Being ''space qualified'';

b.1.b. Crossed-field amplifier tubes with a gain of more than 17 dB;

b.1.c. Impregnated cathodes designed for electronic tubes, with any of the following:

b.1.c.1. A turn on time to rated emission of less than 3 seconds; *or*

b.1.c.2. Producing a continuous emission current density at rated operating conditions exceeding 5 A/cm^2;

b.2. Microwave integrated circuits or modules containing ''monolithic integrated circuits'' operating at frequencies exceeding 3 GHz;

Note: 3A001.b.2 does not control circuits or modules for equipment designed or rated to operate in the ITU allocated bands at frequencies not exceeding 31 GHz.

b.3. Microwave transistors rated for operation at frequencies exceeding 31 GHz;

b.4. Microwave solid state amplifiers, having any of the following:

b.4.a. Operating frequencies exceeding 10.5 GHz and an ''instantaneous bandwidth'' of more than half an octave; *or*

b.4.b. Operating frequencies exceeding 31 GHz;

b.5. Electronically or magnetically tunable band-pass or band-stop filters having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (F_{max}/F_{min}) in less than 10 µs having any of the following:

b.5.a. A band-pass bandwidth of more than 0.5% of center frequency; *or*

b.5.b. A band-stop bandwidth of less than 0.5% of center frequency;

b.6. Microwave ''assemblies'' capable of operating at frequencies exceeding 31 GHz;

b.7. Mixers and converters designed to extend the frequency range of equipment described in 3A002.c, 3A002.e or 3A002.f beyond the limits stated therein;

b.8. Microwave power amplifiers containing tubes controlled by 3A001.b and having all of the following:

b.8.a. Operating frequencies above 3 GHz;

b.8.b. An average output power density exceeding 80 W/kg; *and*

b.8.c. A volume of less than 400 cm^3;

Note: 3A001.b.8 does not control equipment designed or rated for operation in an ITU allocated band.

c. Acoustic wave devices, as follows, and specially designed components therefor:

c.1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., ''signal processing'' devices employing elastic waves in materials), having any of the following:

c.1.a. A carrier frequency exceeding 2.5 GHz;

c.1.b. A carrier frequency exceeding 1 GHz, but not exceeding 2.5 GHz, and having any of the following:

c.1.b.1. A frequency side-lobe rejection exceeding 55 dB;

c.1.b.2. A product of the maximum delay time and the bandwidth (time in µs and bandwidth in MHz) of more than 100;

c.1.b.3. A bandwidth greater than 250 MHz; *or*

c.1.b.4. A dispersive delay of more than 10 µs; *or*

c.1.c. A carrier frequency of 1 GHz or less, having any of the following:

c.1.c.1. A product of the maximum delay time and the bandwidth (time in µs and bandwidth in MHz) of more than 100;

c.1.c.2. A dispersive delay of more than 10 µs; *or*

c.1.c.3. A frequency side-lobe rejection exceeding 55 dB and a bandwidth greater than 50 MHz;

c.2. Bulk (volume) acoustic wave devices (i.e., ''signal processing'' devices employing elastic waves) that permit the direct processing of signals at frequencies exceeding 1 GHz;

c.3. Acoustic-optic ''signal processing'' devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves that permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

d. Electronic devices and circuits containing components, manufactured from ''superconductive'' materials specially designed for operation at temperatures below the ''critical temperature'' of at least one of the ''superconductive'' constituents, with any of the following:

d.1. Electromagnetic amplification:

d.1.a. At frequencies equal to or less than 31 GHz with a noise figure of less than 0.5 dB; *or*

d.1.b. At frequencies exceeding 31 GHz;

d.2. Current switching for digital circuits using ''superconductive'' gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; *or*

d.3. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices, as follows:

e.1. Batteries and photovoltaic arrays, as follows:

Note: 3A001.e.1 does not control batteries with volumes equal to or less than 27 cm^3 (e.g., standard C-cells or R14 batteries).

e.1.a. Primary cells and batteries having an energy density exceeding 480 Wh/kg and rated for operation in the temperature range from below 243 K (-30° C) to above 343 K (70° C);

e.1.b. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (-20° C) to above 333 K (60° C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75% of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

e.1.c. ''Space qualified'' and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m^2 at an operating temperature of 301 K (28° C) under a tungsten illumination of 1 kW/m^2 at 2,800 K (2,527° C);

e.2. High energy storage capacitors, as follows:

N.B.: See also 3A201.a.

e.2.a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) having all of the following:

e.2.a.1. A voltage rating equal to or more than 5 kV;

e.2.a.2. An energy density equal to or more than 250 J/kg; *and*

e.2.a.3. A total energy equal to or more than 25 kJ;

e.2.b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) having all of the following:

e.2.b.1. A voltage rating equal to or more than 5 kV;

e.2.b.2. An energy density equal to or more than 50 J/kg;

e.2.b.3. A total energy equal to or more than 100 J; *and*

e.2.b.4. A charge/discharge cycle life equal to or more than 10,000;

e.3. ''Superconductive'' electromagnets and solenoids specially designed to be fully charged or discharged in less than one second, having all of the following:

N.B.: See also 3A201.b.

e.3.a. Energy delivered during the discharge exceeding 10 kJ in the first second;

e.3.b. Inner diameter of the current carrying windings of more than 250 mm; *and*

e.3.c. Rated for a magnetic induction of more than 8 T or ''overall current density'' in the winding of more than 300 A/mm^2;

Note: 3A001.e.3 does not control ''superconductive'' electromagnets or solenoids specially designed for Magnetic Resonance Imaging (MRI) medical equipment.

f. Rotary input type shaft absolute position encoders having any of the following:

f.1. A resolution of better than 1 part in 265,000 (18 bit resolution) of full scale; *or*

f.2. An accuracy better than ± 2.5 seconds of arc.

3A002 General purpose electronic equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $3000: 3A002.a, .e, .f, .g; $5000: 3A002.b to .d

GBS: Yes for 3A002.a.1.; 3A002.b (synthesized output frequency of 2.6 GHz or less and a ''frequency switching time'' of 0.3 ms or more); and 3A002.d (synthesized output frequency of 2.6 GHz or less and a ''frequency switching time'' of 0.3 ms or more)

CIV: Yes for 3A002.a.1 (provided all of the following conditions are met: (1) Bandwidths do not exceed: 4 MHz per track and have up to 28 tracks or 2 MHz per track and have up to 42 tracks; (2) Tape speed does not exceed 6.1 m/s; (3) They are not designed for underwater use; (4) They are not ruggedized for military use; *and* (5) Recording density does not exceed 653.2 magnetic flux sine waves per mm); 3A002.b (synthesized output frequency of 2.6 GHz or less; and a ''frequency switching time'' of 0.3 ms or more), 3A002.d (synthesized output frequency of 2.6 GHz or less; and a ''frequency switching time'' of 0.3 ms or more).

List of Items Controlled

Unit: Number

Related Controls: See also 3A202 and 3A992

Related Definitions: N/A

Items: a. Recording equipment, as follows, and specially designed test tape therefor:

a.1. Analog instrumentation magnetic tape recorders, including those permitting the recording of digital signals (e.g., using a high density digital recording (HDDR) module), having any of the following:

a.1.a. A bandwidth exceeding 4 MHz per electronic channel or track;

a.1.b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; *or*

a.1.c. A time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of less than ± 0.1 µs;

Note: Analog magnetic tape recorders specially designed for civilian video purposes are not considered to be instrumentation tape recorders.

a.2. Digital video magnetic tape recorders having a maximum digital interface transfer rate exceeding 180 Mbit/s;

Note: 3A002.a.2 does not control digital video magnetic tape recorders specially designed for television recording using a signal format standardized or recommended by the CCIR or the IEC for civil television applications.

a.3. Digital instrumentation magnetic tape data recorders employing helical scan techniques or fixed head techniques, having any of the following:

a.3.a. A maximum digital interface transfer rate exceeding 175 Mbit/s; *or*

a.3.b. Being ''space qualified'';

Note: 3A002.a.3 does not control analog magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

a.4. Equipment, having a maximum digital interface transfer rate exceeding 175 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

a.5. Waveform digitizers and transient recorders having all of the following:

N.B.: See also 3A202.

a.5.a. Digitizing rates equal to or more than 200 million samples per second and a resolution of 10 bits or more; *and*

a.5.b. A continuous throughput of 2 Gbit/s or more;

Technical Note: For those instruments with a parallel bus architecture, the continuous throughput rate is the highest word rate multiplied by the number of bits in a word. Continuous throughput is the fastest data rate the instrument can output to mass storage without the loss of any information while sustaining the sampling rate and analog-to-digital conversion.

b. ''Frequency synthesizer'', ''assemblies'' having a ''frequency switching time'' from one selected frequency to another of less than 1 ms;

c. ''Signal analyzers'', as follows:

c.1. ''Signal analyzers'' capable of analyzing frequencies exceeding 31 GHz;

c.2. ''Dynamic signal analyzers'' having a ''real-time bandwidth'' exceeding 25.6 Khz;

Note: 3A002.c.2 does not control those ''dynamic signal analyzers'' using only constant percentage bandwidth filters.

Technical Note: Constant percentage bandwidth filters are also known as octave or fractional octave filters.

d. Frequency synthesized signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

d.1. A maximum synthesized frequency exceeding 31 GHz;

d.2. A ''frequency switching time'' from one selected frequency to another of less than 1 ms; *or*

d.3. A single sideband (SSB) phase noise better than $-(126+20\log_{10}F-20\log_{10}f)$ in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Note: 3A002.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analyzers with a maximum operating frequency exceeding 40 GHz;

f. Microwave test receivers having all of the following:

f.1. A maximum operating frequency exceeding 40 GHz; *and*

f.2. Being capable of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having any of the following:

g.1. Long-term stability (aging) less (better) than 1×10^{-11}/month; *or*

g.2. Being ''space qualified''.

Note: 3A002.g.1 does not control non-''space qualified'' rubidium standards.

3A101 Electronic equipment, devices and components, other than those controlled by 3A001, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number

Related Controls: Items controlled in 3A101.a are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121).

Related Definitions: N/A

Items: a. Analog-to-digital converters, usable in ''missiles'', designed to meet military specifications for ruggedized equipment;

b. Accelerators capable of delivering electromagnetic radiation produced by bremsstrahlung from accelerated electrons of 2 MeV or greater, and systems containing those accelerators.

Note: 3A101.b above does not include equipment specially designed for medical purposes.

3A201 Electronic components, other than those controlled by 3A001, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number

Related Controls: This entry does not control magnets that are specially designed for and exported as parts of medical nuclear magnetic resonance (NMR) imaging systems. Such parts may be exported in separate shipments from different sources, provided that the related export control documents clearly specify that the parts are for medical NMR imaging systems that are being exported.

Related Definition: N/A

Items: a. Capacitors with the following characteristics:

a.1. Voltage rating greater than 1.4 kV, energy storage greater than 10 J, capacitance greater than 0.5 μF and series inductance less than 50 Nh; *or*

a.2. Voltage rating greater than 750 V, capacitance greater than 0.25 μF and series inductance less than 10 Nh;

b. Superconducting solenoidal electromagnets with all of the following characteristics:

b.1. Capable of creating magnetic fields of more than 2 teslas (20 kilogauss);

b.2. With an L/D ratio (length divided by inner diameter) greater than 2;

b.3. With an inner diameter of more than 300 mm; *and*

b.4. With a magnetic field uniform to better than 1% over the central 50% of the inner volume;

Note: 3A201.b does not specify magnets specially designed for and exported as parts of medical nuclear magnetic resonance (NMR) imaging systems. The phrase ''as part of'' does not necessarily mean physical part in the same shipment; separate shipments from different sources are allowed, provided the related export documents clearly specify that the shipments are dispatched ''as part of'' the imaging systems.

c. Flash X-ray generators or pulsed electron accelerators with peak energy of 500 keV or greater, as follows, except accelerators that are component parts of devices designed for purposes other than electron beam or X-ray radiation (electron microscopy, for example) and those designed for medical purposes:

c.1. Having an accelerator peak electron energy of 500 keV or greater but less than 25 MeV and with a figure of merit (K) of 0.25 or greater, where K is defined as:

K=1.7×103V2.65Q, where V is the peak electron energy in million electron volts and Q is the total accelerated charge in coulombs if the accelerator beam pulse duration is less than or equal to 1 microsecond; if the accelerator beam pulse duration is greater than 1 microsecond, Q is the maximum accelerated charge in 1 microsecond {Q equals the integral of i with respect to t, over the lesser of 1 microsecond or the time duration of the beam pulse (Q={integral} idt), where i is beam current in amperes and t is time in seconds}; *or*

c.2. Having an accelerator peak electron energy of 25 MeV or greater and a peak power greater than 50 MW. {Peak power = (peak potential in volts) × (peak beam current in amperes)}.

Technical Notes: a. Time duration of the beam pulse—In machines, based on microwave accelerating cavities, the time duration of the beam pulse is the lesser of 1 microsecond or the duration of the bunched beam packet resulting from one microwave modulator pulse.

b. Peak beam current—In machines based on microwave accelerating cavities, the peak beam current is the average current in the time duration of a bunched beam packet.

3A225 Frequency changers (also known as converters or inverters) or generators, other than those controlled by 0B001.c.11, having all of the characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number

Related Controls: Frequency changers (also known as converters or inverters)

especially designed or prepared to supply motor stators and having the characteristics described in 3A225.b and .d, together with a total harmonic distortion of less than 2 percent and an efficiency of greater than 80 percent are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.)

Related Definition: Motor stators are especially designed or prepared ring-shaped stators for high-speed multiphase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600 Hz to 2,000 Hz, and a power range of 50 VA to 1,000 VA. The stators consist of multiphase windings on a laminated low-loss iron core comprising thin layers typically to 2.0 mm (.008 in) thick or less.

Items: a. A multiphase output capable of providing a power of 40 W or more;

b. Capable of operating in the frequency range between 600 and 2000 Hz;

c. Total harmonic distortion below 10%; *and*

d. Frequency control better than 0.1%.

3A226 Direct current high-power supplies, other than those controlled by 0B001.j.6, capable of continuously producing, over a time period of 8 hours, 100 V or greater with current output of 500 A or greater and with current or voltage regulation better than 0.1%.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A227 High-voltage direct current power supplies, other than those controlled by 0B001.j.5, capable of continuously producing, over a time period of 8 hours, 20,000 V or greater with current output of 1 A or greater and with current or voltage regulation better than 0.1%.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A228 Switching devices, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: a. Cold-cathode tubes (including gas krytron tubes and vacuum sprytron tubes), whether gas filled or not, operating similarly to a spark gap, containing three or more electrodes, and having all of the following characteristics:

a.1. Anode peak voltage rating of 2,500 V or more;

a.2. Anode peak current rating of 100 A or more; *and*

a.3. Anode delay time of 10 microsecond or less;

b. Triggered spark-gaps having an anode delay time of 15 microsecond or less and rated for a peak current of 500 A or more;

c. Modules or assemblies with a fast switching function having all of the following characteristics:

c.1. Anode peak voltage rating greater than 2,000 V;

c.2. Anode peak current rating of 500 A or more; and

c.3. Turn-on time of 1 microsecond or less.

3A229 Firing sets and equivalent high-current pulse generators (for detonators controlled by 3A232), as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: See also U.S. Munitions List
Related Definitions: N/A
Items: a. Explosive detonator firing sets designed to drive multiple controlled detonators controlled by 3A232;

b. Modular electrical pulse generators (pulsers) designed for portable, mobile or ruggedized use (including xenon flash-lamp drivers) having all the following characteristics:

b.1. Capable of delivering their energy in less than 15 microsecond;

b.2. Having an output greater than 100 A;

b.3. Having a rise time of less than 10 microsecond into loads of less than 40 ohms (rise time is the time interval from 10% to 90% current amplitude when driving a resistive load);

b.4. Enclosed in a dust-tight enclosure;

b.5. No dimension greater than 254 mm;

b.6. Weight less than 25 kg; *and*

b.7. Specified for use over an extended temperature range 223 K (−50° C) to 373 K (100° C) or specified as suitable for aerospace use.

3A230 High-speed pulse generators with output voltages greater than 6 volts into a less than 55 ohm resistive load, and with pulse transition times less than 500 picoseconds.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: In this entry, ''pulse transition time'' is defined as the time interval between 10% and 90% voltage amplitude.
Items: The list of items controlled is contained in the ECCN heading.

3A231 Neutron generator systems, including tubes, designed for operation without an external vacuum system and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number, parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A232 Detonators and multipoint initiation systems, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: This entry does not control detonators using only primary explosives, such as lead azide.
Related Definition: The detonators of concern all utilize a small electrical conductor (bridge, bridge wire or foil) that explosively vaporizes when a fast, high-current electrical pulse is passed through it. In nonslapper types, the exploding conductor starts a chemical detonation in a contacting high-explosive material such as PETN (Pentaerythritoltetranitrate). In slapper detonators, the explosive vaporization of the electrical conductor drives a flyer or slapper across a gap and the impact of the slapper on an explosive starts a chemical detonation. The slapper in some designs is driven by a magnetic force. The term exploding foil detonator may refer to either an EB or a slapper-type detonator. Also, the word initiator is sometimes used in place of the word detonator.
Items: a. Electrically driven explosive detonators, the following:
a.1. Exploding bridge (EB);
a.2. Exploding bridge wire (EBW);
a.3. Slapper;
a.4. Exploding foil initiators (EFI);
b. Arrangements using single or multiple detonators designed to nearly simultaneously initiate an explosive surface (over greater than 5000 mm^2) from a single firing signal (with an initiation timing spread over the surface of less than 2.5 microseconds).

3A233 Mass spectrometers, other than those controlled by 0B002.g, capable of measuring ions of 230 atomic mass units or greater and having a resolution of better than 2 parts in 230, and ion sources therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: Specially designed or prepared magnetic or quadruple mass spectrometers that have the following characteristics and are capable of taking on-line samples of feed, product, or tails from UF_6 gas streams are subject to the export licensing authority of the Nuclear Regulatory Commission. (See 10 CFR part 110.): (a) Unit resolution for mass greater than 320; (b) Ion sources that are constructed of or lined with nichrome or that are monel or nickel-plated; (c) Electron bombardment ionization sources; (d) Having a collector system suitable for isotopic analysis.
Related Definitions: N/A
Items: a. Inductively coupled plasma mass spectrometers (ICP/MS);
b. Glow discharge mass spectrometers (GDMS);
c. Thermal ionization mass spectrometers (TIMS);
d. Electron bombardment mass spectrometers that have a source chamber constructed from, lined with or plated with materials resistant to UF6;
e. Molecular beam mass spectrometers as follows:
e.1. Having a source chamber constructed from, lined with or plated with stainless steel or molybdenum and have a cold trap capable of cooling to 193 K (−80° C) or less; or
e.2. Having a source chamber constructed from, lined with or plated with materials resistant to UF_6; or
f. Mass spectrometers equipped with a microfluorination ion source designed for use with actinides or actinide fluorides.

3A292 Oscilloscopes and transient recorders other than those controlled by 3A002.a.5, and specially designed components therefor.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: ''Bandwidth'' is defined as the band of frequencies over which the deflection on the cathode ray tube does not fall below 70.7% of that at the maximum point measured with a constant input voltage to the oscilloscope amplifier.
Items: a. Non-modular analog oscilloscopes having a bandwidth of 1 GHz or greater;
b. Modular analog oscilloscope systems having either of the following characteristics:
b.1. A mainframe with a bandwidth of 1 GHz or greater; *or*
b.2. Plug-in modules with an individual bandwidth of 4 GHz or greater;
c. Analog sampling oscilloscopes for the analysis of recurring phenomena with an effective bandwidth greater than 4 GHz;
d. Digital oscilloscopes and transient recorders, using analog-to-digital conversion techniques, capable of storing transients by sequentially sampling single-shot inputs at successive intervals of less than 1 ns (greater than 1 giga-sample per second), digitizing to 8 bits or greater resolution and storing 256 or more samples.

Note: Specially designed components controlled by this item are the following, for analog oscilloscopes:
1. Plug-in units;
2. External amplifiers;
3. Pre-amplifiers;
4. Sampling devices;
5. Cathode ray tubes.

3A980 Voice print identification and analysis equipment and parts, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A981 Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specially designed parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3A991 Electronic devices and components not controlled by 3A001.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Microprocessor microcircuits'', ''microcomputer microcircuits'', and microcontroller microcircuits having a clock frequency exceeding 25 MHz;
b. Storage integrated circuits, as follows:

b.1. Electrical erasable programmable read-only memories (EEPROMs) with a storage capacity;

b.1.a. Exceeding 16 Mbits per package for flash memory types; *or*

b.1.b. Exceeding either of the following limits for all other EEPROM types:

b.1.b.1. Exceeding 1 Mbit per package; *or*

b.1.b.2. Exceeding 256 kbit per package and a maximum access time of less than 80 ns;

b.2. Static random access memories (SRAMs) with a storage capacity:

b.2.a. Exceeding 1 Mbit per package; *or*

b.2.b. Exceeding 256 kbit per package and a maximum access time of less than 25 ns;

c. Field programmable logic arrays having either of the following:

c.1. An equivalent gate count of more than 5000 (2 input gates); *or*

c.2. A toggle frequency exceeding 100 MHz;

d. Custom integrated circuits for which either the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

d.1. More than 144 terminals; or

d.2. A typical ''basic propagation delay time'' of less than 0.4 ns.

e. Travelling wave tubes, pulsed or continuous wave, as follows:

e.1. Coupled cavity tubes, or derivatives thereof;

e.2. Helix tubes, or derivatives thereof, with any of the following:

e.2.a.1. An ''instantaneous bandwidth'' of half an octave or more; and

e.2.a.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.2;

e.2.b.1 An ''instantaneous bandwidth'' of less than half an octave; and

e.2.b.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.4;

f. Flexible waveguides designed for use at frequencies exceeding 40 GHz;

g. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., ''signal processing'' devices employing elastic waves in materials), having either of the following:

g.1. A carrier frequency exceeding 1 GHz; or

g.2. A carrier frequency of 1 GHz or less; and

g.2.a. A frequency side-lobe rejection exceeding 55 dB;

g.2.b. A product of the maximum delay time and bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

g.2.c. A dispersive delay of more than 10 microseconds.

h. Batteries, as follows:

Note: 3A991.h does not control batteries with volumes equal to or less than 26 cm^3 (e.g., standard C-cells or UM–2 batteries).

h.1. Primary cells and batteries having an energy density exceeding 350 Wh/kg and rated for operation in the temperature range from below 243 K (−30° C) to above 343 K (70° C);

h.2. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20° C) to above 333 K (60° C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75 percent of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

i. ''Superconductive'' electromagnets or solenoids specially designed to be fully charged or discharged in less than one minute, having all of the following:

Note: 3A991.i does not control ''superconductive'' electromagnets or solenoids designed for Magnetic Resonance Imaging (MRI) medical equipment.

i.1. Maximum energy delivered during the discharge divided by the duration of the discharge of more than 500 kJ per minute;

i.2. Inner diameter of the current carrying windings of more than 250 mm; and

i.3. Rated for a magnetic induction of more than 8T or ''overall current density'' in the winding of more than 300 A/mm^2.

j. Circuits or systems for electromagnetic energy storage, containing components manufactured from ''superconductive'' materials specially designed for operation at temperatures below the ''critical temperature'' of at least one of their ''superconductive'' constituents, having all of the following:

j.1. Resonant operating frequencies exceeding 1 MHz;

j.2. A stored energy density of 1 MJ/M^3 or more; and

j.3. A discharge time of less than 1 ms;

k. Hydrogen/hydrogen-isotope thyratrons of ceramic-metal construction and rate for a peak current of 500 A or more.

3A992 General purpose electronic equipment not controlled by 3A002.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1000 for Syria for .a only
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. Electronic test equipment, n.e.s.

b. Digital instrumentation magnetic tape data recorders having any of the following characteristics;

b.1. A maximum digital interface transfer rate exceeding 60 Mbit/s and employing helical scan techniques;

b.2. A maximum digital interface transfer rate exceeding 120 Mbit/s and employing fixed head techniques; or

b.3. ''Space qualified'';

c. Equipment, with a maximum digital interface transfer rate exceeding 60 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

B. Test, Inspection and Production Equipment

3B001 Equipment for the manufacturing of semiconductor devices or materials and specially designed components and accessories therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $500
GBS: Yes, except 3B001. a.2 and a.3; and for equipment controlled under 3B001.e, they cannot be connected to equipment controlled by 3B001.a.2, a.3, and .f.
CIV: Yes for equipment controlled by 3B001.a.1

List of Items Controlled

Unit: Number
Related Controls: See also 3B991
Related Definitions: N/A
Items: a. ''Stored program controlled'' equipment designed for epitaxial growth, as follows:

a.1. Equipment capable of producing a layer thickness uniform to less than ± 2.5% across a distance of 75 mm or more;

a.2. Metal organic chemical vapor deposition (MOCVD) reactors specially designed for compound semiconductor crystal growth by the chemical reaction between materials controlled by 3C003 or 3C004;

a.3. Molecular beam epitaxial growth equipment using gas sources;

b. ''Stored program controlled'' equipment designed for ion implantation, having any of the following:

b.1. An accelerating voltage exceeding 200 keV;

b.2. Being specially designed and optimized to operate at an accelerating voltage of less than 10 keV;

b.3. Direct write capability; or

b.4. Being capable of high energy oxygen implant into a heated semiconductor material ''substrate'';

c. ''Stored program controlled'' anisotropic plasma dry etching equipment, as follows:

c.1. Equipment with cassette-to-cassette operation and load-locks, and having any of the following:

c.1.a. Magnetic confinement; or

c.1.b. Electron cyclotron resonance (ECR);

c.2. Equipment specially designed for equipment controlled by 3B001.e. and having any of the following:

c.2.a. Magnetic confinement; or

c.2.b. ECR;

d. ''Stored program controlled'' plasma enhanced CVD equipment, as follows:

d.1. Equipment with cassette-to-cassette operation and load-locks, and having any of the following:

d.1.a. Magnetic confinement; or

d.1.b. ECR;

d.2. Equipment specially designed for equipment controlled by 3B001.e. and having any of the following:

d.2.a. Magnetic confinement; or

d.2.b. ECR;

e. ''Stored program controlled'' automatic loading multi-chamber central wafer handling systems, having all of the following:

e.1. Interfaces for wafer input and output, to which more than two pieces of semiconductor processing equipment are to be connected; and

e.2. Designed to form an integrated system in a vacuum environment for sequential multiple wafer processing;

Note: 3B001.e. does not control automatic robotic wafer handling systems not designed to operate in a vacuum environment.

f. ''Stored program controlled'' lithography equipment, as follows:

f.1. Align and expose step and repeat equipment for wafer processing using photo-optical or X-ray methods, having any of the following:

f.1.a. A light source wavelength shorter than 400 nm; *or*

f.1.b. Capable of producing a pattern with a minimum resolvable feature size of 0.7 µm or less;

Note: The minimum resolvable feature size is calculated by the following formula:

$$MRF = \frac{(\text{an exposure light source wavelength in } \mu m) \times (\text{K factor})}{\text{numerical aperture}}$$

Where the K factor = 0.7.

MRF = minimum resolvable feature size.

f.2. Equipment specially designed for mask making or semiconductor device processing using deflected focussed electron beam, ion beam or ''laser'' beam, having any of the following:

f.2.a. A spot size smaller than 0.2 µm;

f.2.b. Being capable of producing a pattern with a feature size of less than 1 µm; or

f.2.c. An overlay accuracy of better than ± 0.20 µm (3 sigma);

g. Masks and reticles designed for integrated circuits controlled by 3A001;

h. Multi-layer masks with a phase shift layer.

3B002 ''Stored program controlled'' test equipment, specially designed for testing finished or unfinished semiconductor devices and specially designed components and accessories therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $500

GBS: Yes

CIV: N/A

List of Items Controlled

Unit: Number

Related Controls: See also 3B992

Related Definitions: N/A

Items: a. For testing S-parameters of transistor devices at frequencies exceeding 31 GHz;

b. For testing integrated circuits capable of performing functional (truth table) testing at a pattern rate of more than 60 MHz;

Note: 3B002.b does not control test equipment specially designed for testing:

1. ''Assemblies'' or a class of ''assemblies'' for home or entertainment applications;

2. Uncontrolled electronic components, ''assemblies'' or integrated circuits.

c. For testing microwave integrated circuits at frequencies exceeding 3 GHz;

Note: 3B002.c does not control test equipment specially designed for testing microwave integrated circuits for equipment designed or rated to operate in the ITU allocated bands at frequencies not exceeding 31 GHz.

d. Electron beam systems designed for operation at 3 keV or below, or ''laser'' beam systems, for the non-contactive probing of powered-up semiconductor devices, having all of the following:

d.1. Stroboscopic capability with either beam-blanking or detector strobing; and

d.2. An electron spectrometer for voltage measurement with a resolution of less than 0.5 V.

Note: 3B002.d does not control scanning electron microscopes, except when specially designed and instrumented for the non-contactive probing of powered-up semiconductor devices.

3B991 Equipment not controlled by 3B001 for the manufacture of electronic components and materials, and specially designed components and accessories therefor.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: Equipment in number

Related Controls: N/A

Related Definitions: N/A

Items: a. Equipment specially designed for the manufacture of electron tubes, optical elements and specially designed components therefor controlled by 3A001 or 3A991;

b. Equipment specially designed for the manufacture of semiconductor devices, integrated circuits and ''assemblies'', as follows, and systems incorporating or having the characteristics of such equipment:

Note: 3B991.b also controls equipment used or modified for use in the manufacture of other devices, such as imaging devices, electro-optical devices, acoustic-wave devices.

b.1. Equipment for the processing of materials for the manufacture of devices and components as specified in the heading of 3B991.b, as follows:

Note: 3B991 does not control quartz furnace tubes, furnace liners, paddles, boats (except specially designed caged boats), bubblers, cassettes or crucibles specially designed for the processing equipment controlled by 3B991.b.1.

b.1.a. Equipment for producing polycrystalline silicon and materials controlled by 3C001;

b.1.b. Equipment specially designed for purifying or processing III/V and II/VI semiconductor materials controlled by 3C001, 3C002, 3C003, or 3C004, except crystal pullers, for which see 3B991.b.1.c below;

b.1.c. Crystal pullers and furnaces, as follows:

Note: 3B991.b.1.c does not control diffusion and oxidation furnaces.

b.1.c.1. Annealing or recrystallizing equipment other than constant temperature furnaces employing high rates of energy transfer capable of processing wafers at a rate exceeding 0.005 m^2 per minute;

b.1.c.2. ''Stored program controlled'' crystal pullers having any of the following characteristics:

b.1.c.2.a. Rechargeable without replacing the crucible container;

b.1.c.2.b. Capable of operation at pressures above 2.5 x 10^5 Pa; *or*

b.1.c.2.c. Capable of pulling crystals of a diameter exceeding 100 mm;

b.1.d. ''Stored program controlled'' equipment for epitaxial growth having any of the following characteristics:

b.1.d.1. Capable of producing a layer thickness uniformity across the wafer of equal to or better than ±3.5%;

b.1.d.2. Rotation of individual wafers during processing; *or*

b.1.e. Molecular beam epitaxial growth equipment;

b.1.f. ''Magnetically enhanced'' ''sputtering'' equipment with specially designed integral load locks capable of transferring wafers in an isolated vacuum environment;

b.1.g. Equipment specially designed for ion implantation, ion-enhanced or photo-enhanced diffusion, having any of the following characteristics:

b.1.g.1. Patterning capability;

b.1.g.2. Accelerating voltage for more than 200 keV; *or*

b.1.g.3. Capable of high energy oxygen implant into a heated ''substrate'';

b.1.h. ''Stored program controlled'' equipment for the selective removal (etching) by means of anisotropic dry methods (e.g., plasma), as follows:

b.1.h.1. Batch types having either of the following:

b.1.h.1.a. End-point detection, other than optical emission spectroscopy types; or

b.1.h.1.b. Reactor operational (etching) pressure of 26.66 Pa or less;

b.1.h.2. Single wafer types having any of the following:

b.1.h.2.a. End-point detection, other than optical emission spectroscopy types;

b.1.h.2.b. Reactor operational (etching) pressure of 26.66 Pa or less; or

b.1.h.2.c. Cassette-to-cassette and load locks wafer handling;

Notes: 1. ''Batch types'' refers to machines not specially designed for production processing of single wafers. Such machines can process two or more wafers simultaneously with common process parameters, e.g., RF power, temperature, etch gas species, flow rates.

2. ''Single wafer types'' refers to machines specially designed for production processing of single wafers. These machines may use automatic wafer handling techniques to load a single wafer into the equipment for processing. The definition includes equipment that can load and process several wafers but where the etching parameters, e.g., RF power or end point, can be independently determined for each individual wafer.

b.1.i. ''Chemical vapor deposition'' (CVD) equipment, e.g., plasma-enhanced CVD (PECVD) or photo-enhanced CVD, for semiconductor device manufacturing, having either of the following capabilities, for deposition of oxides, nitrides, metals or polysilicon:

b.1.i.1. ''Chemical vapor deposition'' equipment operating below 105 Pa; *or*

b.1.i.2. PECVD equipment operating either below 60 Pa (450 millitorr) or having automatic cassette-to-cassette and load lock wafer handling;

Note: 3B991.b.1.i does not control low pressure ''chemical vapor deposition'' (LPCVD) systems or reactive ''sputtering'' equipment.

b.1.j. Electron beam systems specially designed or modified for mask making or semiconductor device processing having any of the following characteristics:

b.1.j.1. Electrostatic beam deflection;

b.1.j.2. Shaped, non-Gaussian beam profile;

b.1.j.3. Digital-to-analog conversion rate exceeding 3 MHz;

b.1.j.4. Digital-to-analog conversion accuracy exceeding 12 bit; *or*

b.1.j.5. Target-to-beam position feedback control precision of 1 micrometer or finer;

Note: 3B991.b.1.j does not control electron beam deposition systems or general purpose scanning electron microscopes.

b.1.k. Surface finishing equipment for the processing of semiconductor wafers as follows:

b.1.k.1. Specially designed equipment for backside processing of wafers thinner than 100 micrometer and the subsequent separation thereof; *or*

b.1.k.2. Specially designed equipment for achieving a surface roughness of the active surface of a processed wafer with a two-sigma value of 2 micrometer or less, total indicator reading (TIR);

Note: 3B991.b.1.k does not control single-side lapping and polishing equipment for wafer surface finishing.

b.1.l. Interconnection equipment which includes common single or multiple vacuum chambers specially designed to permit the integration of any equipment controlled by 3B991 into a complete system;

b.1.m. ''Stored program controlled'' equipment using ''lasers'' for the repair or trimming of ''monolithic integrated circuits'' with either of the following characteristics:

b.1.m.1. Positioning accuracy less than ±1 micrometer; *or*

b.1.m.2. Spot size (kerf width) less than 3 micrometer.

b.2. Masks, mask ''substrates'', mask-making equipment and image transfer equipment for the manufacture of devices and components as specified in the heading of 3B991, as follows:

Note: The term ''masks'' refers to those used in electron beam lithography, X-ray lithography, and ultraviolet lithography, as well as the usual ultraviolet and visible photo-lithography.

b.2.a. Finished masks, reticles and designs therefor, except:

b.2.a.1. Finished masks or reticles for the production of unembargoed integrated circuits; *or*

b.2.a.2. Masks or reticles, having both of the following characteristics:

b.2.a.2.a. Their design is based on geometries of 2.5 micrometer or more; and

b.2.a.2.b. The design does not include special features to alter the intended use by means of production equipment or ''software'';

b.2.b. Mask ''substrates'' as follows:

b.2.b.1. Hard surface (e.g., chromium, silicon, molybdenum) coated ''substrates'' (e.g., glass, quartz, sapphire) for the preparation of masks having dimensions exceeding 125 mm x 125 mm; *or*

b.2.b.2. ''Substrates'' specially designed for X-ray masks;

b.2.c. Equipment, other than general purpose computers, specially designed for computer aided design (CAD) of semiconductor devices or integrated circuits;

b.2.d. Equipment or machines, as follows, for mask or reticle fabrication:

b.2.d.1. Photo-optical step and repeat cameras capable of producing arrays larger than 100 mm x 100 mm, or capable of producing a single exposure larger than 6 mm x 6 mm in the image (i.e., focal) plane, or capable of producing line widths of less than 2.5 micrometer in the photoresist on the ''substrate'';

b.2.d.2. Mask or reticle fabrication equipment using ion or ''laser'' beam lithography capable of producing line widths of less than 2.5 micrometer; or

b.2.d.3. Equipment or holders for altering masks or reticles or adding pellicles to remove defects;

Note: 3B991.b.2.d.1 and b.2.d.2 do not control mask fabrication equipment using photo-optical methods which was either commercially available before the 1st January, 1980, or has a performance no better than such equipment.

b.2.e. ''Stored program controlled'' equipment for the inspection of masks, reticles or pellicles with:

b.2.e.1. A resolution of 0.25 micrometer or finer; and

b.2.e.2. A precision of 0.75 micrometer or finer over a distance in one or two coordinates of 63.5 mm or more;

Note: 3B991.b.2.e does not control general purpose scanning electron microscopes except when specially designed and instrumented for automatic pattern inspection.

b.2.f. Align and expose equipment for wafer production using photo-optical methods, including both projection image transfer equipment and step and repeat equipment, capable of performing any of the following functions:

Note: 3B991.b.2.f does not control photo-optical contact and proximity mask align and expose equipment or contact image transfer equipment.

b.2.f.1. Production of a pattern size of less than 2.5 micrometer;

b.2.f.2. Alignment with a precision finer than ± 0.25 micrometer (3 sigma); or

b.2.f.3. Machine-to-machine overlay no better than ± 0.3 micrometer;

b.2.g. Electron beam, ion beam or X-ray equipment for projection image transfer capable of producing patterns less than 2.5 micrometer;

Note: For focussed, deflected-beam systems (direct write systems), see 3B991.b.1.j or b.10.

b.2.h. Equipment using ''lasers'' for direct write on wafers capable of producing patterns less than 2.5 micrometer.

b.3. Equipment for the assembly of integrated circuits, as follows:

b.3.a. ''Stored program controlled'' die bonders having all of the following characteristics:

b.3.a.1. Specially designed for ''hybrid integrated circuits'';

b.3.a.2. X–Y stage positioning travel exceeding 37.5 x 37.5 mm; and

b.3.a.3. Placement accuracy in the X–Y plane of finer than ± 10 micrometer;

b.3.b. ''Stored program controlled'' equipment for producing multiple bonds in a single operation (e.g., beam lead bonders, chip carrier bonders, tape bonders);

b.3.c. Semi-automatic or automatic hot cap sealers, in which the cap is heated locally to a higher temperature than the body of the package, specially designed for ceramic microcircuit packages controlled by 3A001 and that have a throughput equal to or more than one package per minute.

Note: 3B991.b.3 does not control general purpose resistance type spot welders.

b.4. Filters for clean rooms capable of providing an air environment of 10 or less particles of 0.3 micrometer or smaller per 0.02832 m^3 and filter materials therefor;

3B992 Equipment not controlled by 3B002 for the inspection or testing of electronic components and materials, and specially designed components and accessories therefor;

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A

Items: a. Equipment specially designed for the inspection or testing of electron tubes, optical elements and specially designed components therefor controlled by 3A001 or 3A991;

b. Equipment specially designed for the inspection or testing of semiconductor devices, integrated circuits and ''assemblies'', as follows, and systems incorporating or having the characteristics of such equipment:

Note: 3B992.b also controls equipment used or modified for use in the inspection or testing of other devices, such as imaging devices, electro-optical devices, acoustic-wave devices.

b.1. ''Stored program controlled'' inspection equipment for the automatic detection of defects, errors or contaminants of 0.6 micrometer or less in or on processed wafers, ''substrates'', other than printed circuit boards or chips, using optical image acquisition techniques for pattern comparison;

Note: 3B992.b.1 does not control general purpose scanning electron microscopes, except when specially designed and instrumented for automatic pattern inspection.

b.2. Specially designed ''stored program controlled'' measuring and analysis equipment, as follows:

b.2.a. Specially designed for the measurement of oxygen or carbon content in semiconductor materials;

b.2.b. Equipment for line width measurement with a resolution of 1 micrometer or finer;

b.2.c. Specially designed flatness measurement instruments capable of measuring deviations from flatness of 10 micrometer or less with a resolution of 1 micrometer or finer.

b.3. ''Stored program controlled'' wafer probing equipment having any of the following characteristics:

b.3.a. Positioning accuracy finer than 3.5 micrometer;

b.3.b. Capable of testing devices having more than 68 terminals; *or*

b.3.c. Capable of testing at a frequency exceeding 1 GHz;

b.4. Test equipment as follows:

b.4.a. ''Stored program controlled'' equipment specially designed for testing discrete semiconductor devices and unencapsulated dice, capable of testing at frequencies exceeding 18 GHz;

Technical Note: Discrete semiconductor devices include photocells and solar cells.

b.4.b. ''Stored program controlled'' equipment specially designed for testing integrated circuits and ''assemblies'' thereof, capable of functional testing:

b.4.b.1. At a pattern rate exceeding 20 MHz; or

b.4.b.2. At a pattern rate exceeding 10 MHz but not exceeding 20 MHz and capable of testing packages of more than 68 terminals;

Note: 3B992.b.4.b does not control equipment specially designed for testing integrated circuits not controlled by 3A001 or 3A991.

Notes: 1. 3B992.b.4.b does not control test equipment specially designed for testing ''assemblies'' or a class of ''assemblies'' for home and entertainment applications.

2. 3B992.b.4.b does not control test equipment specially designed for testing electronic components, ''assemblies'' and integrated circuits not controlled by 3A001 or 3A991 provided such test equipment does not incorporate computing facilities with ''user accessible programmability''.

b.4.c. Equipment specially designed for determining the performance of focal-plane arrays at wavelengths of more than 1,200 nm, using ''stored program controlled'' measurements or computer aided evaluation and having any of the following characteristics:

b.4.c.1. Using scanning light spot diameters of less than 0.12 mm;

b.4.c.2. Designed for measuring photosensitive performance parameters and for evaluating frequency response, modulation transfer function, uniformity of responsivity or noise; or

b.4.c.3. Designed for evaluating arrays capable of creating images with more than 32 x 32 line elements;

b.5. Electron beam test systems, capable of operating at or below 3,000 eV, for non-contactive probing of powered-up semiconductor devices having any of the following:

b.5.a. Stroboscopic capability with either beam blanking or detector strobing;

b.5.b. An electron spectrometer for voltage measurements with a resolution of less than 0.5 V; or

b.5.c. Electrical tests fixtures for performance analysis of integrated circuits;

Note: 3B992.b.5 does not control scanning electron microscopes, except when specially designed and instrumented for non-contactive probing of a powered-up semiconductor device.

b.6. ''Stored program controlled'' multifunctional focused ion beam systems specially designed for manufacturing, repairing, physical layout analysis and testing of masks or semiconductor devices and having either of the following characteristics:

b.6.a. Target-to-beam position feedback control precision of 1 micrometer or finer; or

b.6.b. Digital-to-analog conversion accuracy exceeding 12 bit;

b.7. Particle measuring systems employing ''lasers'' designed for measuring particle size and concentration in air having both of the following characteristics:

b.7.a. Capable of measuring particle sizes of 0.2 micrometer or less at a flow rate of 0.02832 m^3 per minute or more; and

b.7.b. Capable of characterizing Class 10 clean air or better.

C. Materials

3C001 Hetero-epitaxial materials consisting of a ''substrate'' having stacked epitaxially grown multiple layers of any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: III/V compounds are polycrystalline or binary or complex monocrystalline products consisting of elements of groups IIIA and VA of Mendeleyev's periodic classification table (e.g., gallium arsenide, gallium-aluminium arsenide, indium phosphide).
Items: a. Silicon;
b. Germanium; *or*
c. III/V compounds of gallium or indium.

3C002 Resist material and ''substrates'' coated with controlled resists.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: Silylation techniques are defined as processes incorporating oxidation of the resist surface to enhance performance for both wet and dry developing.
Items: a. Positive resists designed for semiconductor lithography specially adjusted (optimized) for use at wavelengths below 370 nm;

b. All resists designed for use with electron beams or ion beams, with a sensitivity of 0.01 μcoulomb/mm^2 or better;

c. All resists designed for use with X-rays, with a sensitivity of 2.5 mJ/mm^2 or better;

d. All resists optimized for surface imaging technologies, including silylated resists.

3C003 Organo-inorganic compounds, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry controls only compounds whose metallic, partly metallic or non-metallic element is directly linked

to carbon in the organic part of the molecule.

Related Definition: N/A

Items: a. Organo-metallic compounds of aluminium, gallium or indium having a purity (metal basis) better than 99.999%;

b. Organo-arsenic, organo-antimony and organo-phosphorus compounds having a purity (inorganic element basis) better than 99.999%.

3C004 Hydrides of phosphorus, arsenic or antimony, having a purity better than 99.999%, even diluted in inert gases or hydrogen.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: This entry does not control hydrides containing less than 20% molar or more of inert gases or hydrogen.

Related Definition: N/A

Items: The list of items controlled is contained in the ECCN heading.

D. Software

3D001 ''Software'' specially designed for the ''development'' or ''production'' of equipment controlled by 3A001.b to 3A002.g or 3B (except 3B991 and 3B992).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to ''software'' for equipment controlled by 3A001.b to 3A001.f, 3A002, and 3B.	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value

Related Controls: See also 3D101

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

3D002 ''Software'' specially designed for the ''use'' of ''stored program controlled'' equipment controlled by 3B (except 3B991 and 3B992).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

3D003 Computer-aided-design (CAD) ''software'' designed for semiconductor devices or integrated circuits, having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value

Related Controls: This entry does not control ''software'' specially designed for schematic entry, logic simulation, placing and routing, layout verification or pattern generation tape.

Related Definitions: (1) Libraries, design attributes or associated data for the design of semiconductor devices or integrated circuits are considered as ''technology''. (2) A lithographic processing simulator is a ''software'' package used in the design phase to define the sequence of lithographic, etching and deposition steps for translating masking patterns into specific topographical patterns in conductors, dielectrics or semiconductor material.

Items: a. Design rules or circuit verification rules;

b. Simulation of the physically laid out circuits; *or*

c. Lithographic processing simulators for design.

3D101 ''Software'' specially designed for the ''use'' of equipment controlled by 3A101.b.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

3D102 ''Software'' specially designed for the ''development'' or ''production'' of equipment controlled by 3A001.a.1.a or 3A101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

3D980 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of items controlled by 3A980 and 3A981.

License Requirements

Reason for Control: CC, AT

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

3D991 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of electronic devices or components controlled by 3A991, general purpose electronic equipment controlled by 3A992, or manufacturing and test equipment controlled by 3B991 and 3B992.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

E. Technology

3E001 "Technology" according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 3A (except 3A292, 3A980, 3A981, 3A991 or 3A992), 3B (except 3B991 and 3B992) or 3C.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to "technology" for items controlled by 3A001, 3A002, 3B001 and 3B002 or 3C001 to 3C004.	NS Column 1
MT applies to "technology" for equipment controlled by 3A001 or 3A101 for MT reasons.	MT Column 1
NP applies to "technology" for equipment controlled by 3A201, 3A225 to 3A233 for NP reasons.	NP Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 3E101 and 3E201. (2) 3E001 does not control "technology" for the "development" or "production" of: (a) Microwave transistors operating at frequencies below 31 GHz; (b) Integrated circuits controlled by 3A001.a.3 to a.12, having all of the following: 1. Using "technology" of one micrometer or more, AND 2. Not incorporating multi-layer structures. (3) The term multi-layer structures in this entry does not include devices incorporating a maximum of two metal layers and two polysilicon layers.
Related Definition: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E002 Other "technology" for the "development" or "production" of items described in the List of Items Controlled.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Vacuum microelectronic devices;

b. Hetero-structure semiconductor devices such as high electron mobility transistors (HEMT), hetero-bipolar transistors (HBT), quantum well and super lattice devices;

c. "Superconductive" electronic devices;

d. Substrates of films of diamond for electronic components.

3E101 "Technology" according to the General Technology Note for the "use" of equipment or "software" controlled by 3A001.a.1.a. or 3A101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E102 "Technology" according to the General Technology Note for the "development" of "software" controlled by 3D101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E201 "Technology" according to the General Technology Note for the "use" of equipment controlled by 3A201, 3A225 to 3A233.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E292 "Technology" according to the General Technology Note for the "development", "production", or "use" of equipment controlled by 3A292.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E980 "Technology" specially designed for "development", "production", or "use" of items controlled by 3A980 and 3A981.

License Requirements

Reason for Control: CC, AT

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

3E991 "Technology" for the "development", "production", or "use" of electronic devices or components controlled by 3A991, general purpose electronic equipment controlled by 3A992, or manufacturing and test equipment controlled by 3B991 or 3B992.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 4—Computers

Note 1: Computers, related equipment and "software" performing telecommunications

or ''local area network'' functions must also be evaluated against the performance characteristics of Category 5, Part 1 (Telecommunications).

N.B. 1: Control units that directly interconnect the buses or channels of central processing units, ''main storage'' or disk controllers are not regarded as telecommunications equipment described in Category 5, Part 1 (Telecommunications).

N.B. 2: For the control status of ''software'' specially designed for packet switching, see ECCN 5D001 (Telecommunications).

Note 2: Computers, related equipment and ''software'' performing cryptographic, cryptoanalytic, certifiable multi-level security or certifiable user isolation functions, or that limit electromagnetic compatibility (EMC), must also be evaluated against the performance characteristics in Category 5, Part 2 (''Information Security'').

A. Systems, Equipment and Components

4A001 Electronic computers and related equipment, and ''electronic assemblies'' and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT, NP, XP

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to items in 4A001.a when the parameters in 4A101 are met or exceeded.	MT Column 1
AT applies to entire entry	AT Column 1

NP applies to electronic computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to electronic computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000 for 4A001.a; N/A for MT and 4A001.b
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 4A101 and 4A994. Equipment designed or rated for transient ionizing radiation is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) See also 4A101.
Related Definitions: For the purposes of integrated circuits in 4A001.a.2, 5 x 103 Gy(Si) = 5 x 105 Rads (Si); 5 x 106 Gy (Si)/s = 5 x 108 Rads (Si)/s.
Items: a. Specially designed to have either of the following characteristics:

a.1. Rated for operation at an ambient temperature below 228 K (−45 °C) or above 358 K (85 °C);

Note: 4A001.a.1. does not apply to computers specially designed for civil automobile or railway train applications.

a.2. Radiation hardened to exceed any of the following specifications:

a.2.a. A total dose of 5×10^3 Gy (Si); *or*

a.2.b. A dose rate upset of 5×10^6 Gy (Si)/s;

a.2.c. Single Event Upset of 1×10^{-7} Error/bit/day;

b. Having characteristics or performing functions exceeding the limits in Category 5, Part 2 (''Information Security'').

4A002 ''Hybrid computers'' and ''electronic assemblies'' and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT, NP, XP

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to hybrid computers combined with specially designed ''software'', for modeling, simulation, or design integration of complete rocket systems and unmanned air vehicle systems that are usable in systems controlled for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

NP applies to hybrid computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to hybrid computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

License Exceptions

LVS: $5000; N/A for MT
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 4A102 and 4A994
Related Definitions: N/A
Items: a. Containing ''digital computers'' controlled by 4A003;

b. Containing analog-to-digital converters having all of the following characteristics:

b.1. 32 channels or more; *and*

b.2. A resolution of 14 bits (plus sign bit) or more with a conversion rate of 200,000 conversions/s or more.

4A003 ''Digital computers'', ''electronic assemblies'', and related equipment therefor, and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	*Country Chart*
NS applies to 4A003.b and .c.	NS Column 1
NS applies to 4A003.a, d, .e, .f, and .g.	NS Column 2
MT applies to digital computers used as ancillary equipment for test facilities and equipment that are controlled by 9B005 or 9B006.	MT Column 1
CC applies to digital computers for computerized finger-print equipment.	CC Column 1
AT applies to entire entry (refer to 4A994 for controls on digital computers with a CTP ≥ 6 but ≤ to 2,000 Mtops).	AT Column 1

NP applies to digital computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to digital computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. XP controls vary according to destination and end-user and end-use. See § 742.12 of the EAR for additional information.

Note: For all destinations, except Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria, no license is required (NLR) for computers with a CTP of 2,000 Mtops, and for assemblies described in 4A003.c that are not capable of exceeding a CTP of 2,000 Mtops in aggregation. Computers controlled in this entry for MT reasons are not eligible for NLR.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000; N/A for MT and ''digital'' computers controlled by 4A003.b and having a CTP exceeding 10,000 MTOPS; or ''electronic assemblies'' controlled by 4A003.c and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS.
GBS: Yes, for 4A003.d, .e, .f, and .g and specially designed components therefor, exported separately or as part of a system.
CTP: Yes, for computers controlled by 4A003.a, .b and .c, to the exclusion of other technical parameters, with the exception of parameters specified as controlled for Missile Technology (MT) concerns and 4A003.e (equipment performing analog-to-digital or digital-to-analog conversions exceeding the limits of 3A001.a.5.a). See § 740.7 of the EAR.
CIV: Yes, for 4A003.d (having a 3–D vector rate less that 10 M vectors/sec), .e, .f and .g.

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 4A994
Related Definitions: N/A
Items:

Note 1: 4A003 includes the following:

a. Vector processors;
b. Array processors;
c. Digital signal processors;
d. Logic processors;
e. Equipment designed for ''image enhancement'';
f. Equipment designed for ''signal processing''.

Note 2: The control status of the ''digital computers'' and related equipment described in 4A003 is determined by the control status of other equipment or systems provided:

a. The ''digital computers'' or related equipment are essential for the operation of the other equipment or systems;

b. The ''digital computers'' or related equipment are not a ''principal element'' of the other equipment or systems; *and*

N.B. 1: The control status of ''signal processing'' or ''image enhancement'' equipment specially designed for other equipment with functions limited to those required for the other equipment is determined by the control status of the other equipment even if it exceeds the ''principal element'' criterion.

N.B. 2: For the control status of ''digital computers'' or related equipment for telecommunications equipment, see Category 5, Part 1 (Telecommunications).

c. The ''technology'' for the ''digital computers'' and related equipment is determined by 4E.

a. Designed or modified for ''fault tolerance'';

Note: For the purposes of 4A003.a., ''digital computers'' and related equipment are not considered to be designed or modified for ''fault tolerance'' if they utilize any of the following:

1. Error detection or correction algorithms in ''main storage'';
2. The interconnection of two ''digital computers'' so that, if the active central processing unit fails, an idling but mirroring central processing unit can continue the system's functioning;
3. The interconnection of two central processing units by data channels or by use of shared storage to permit one central processing unit to perform other work until the second central processing unit fails, at which time the first central processing unit takes over in order to continue the system's functioning; or
4. The synchronization of two central processing units by ''software'' so that one central processing unit recognizes when the other central processing unit fails and recovers tasks from the failing unit.

b. ''Digital computers'' having a ''composite theoretical performance'' (''CTP'') exceeding 2,000 million theoretical operations per second (Mtops);

c. ''Electronic assemblies'' specially designed or modified to be capable of enhancing performance by aggregation of ''computing elements'' (''CEs'') so that the ''CTP'' of the aggregation exceeds the limit in 4A003.b.;

Note 1: 4A003.c applies only to ''electronic assemblies'' and programmable interconnections not exceeding the limit in 4A003.b. when shipped as unintegrated ''electronic assemblies''. It does not apply to ''electronic assemblies'' inherently limited by nature of their design for use as related equipment controlled by 4A003.d, 4A003.e or 4A003.f.

Note 2: 4A003.c does not control ''electronic assemblies'' specially designed for a product or family of products whose maximum configuration does not exceed the limit of 4A003.b.

d. Graphics accelerators and graphics coprocessors exceeding a ''three dimensional Vector Rate'' of 3,000,000;

e. Equipment performing analog-to-digital conversions exceeding the limits in 3A001.a.5;

f. Equipment containing ''terminal interface equipment'' exceeding the limits in 5A001.b.3;

Note: For the purposes of 4A003.f, ''terminal interface equipment'' includes ''local area network'' interfaces and other communications interfaces. ''Local area network'' interfaces are evaluated as ''network access controllers''.

g. Equipment specially designed to provide external interconnection of ''digital computers'' or associated equipment that allows communications at data rates exceeding 80 Mbyte/s.

Note: 4A003.g does not control internal interconnection equipment (e.g., backplanes, buses) or passive interconnection equipment.

4A004 Computers, as follows (see List of Items Controlled) and specially designed related equipment, ''electronic assemblies'' and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Systolic array computers'';
b. ''Neural computers'';
c. ''Optical computers''.

4A101 Analog computers, ''digital computers'' or digital differential analyzers, other than those controlled by 4A001 designed or modified for use in ''missiles'', having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: a. Rated for continuous operation at temperatures from below 228 K (−45° C) to above 328 K (+55° C); or
b. Designed as ruggedized or ''radiation hardened''.

4A102 ''Hybrid computers'' specially designed for modelling, simulation or design integration of ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

4A980 Computers for fingerprint equipment, n.e.s.

License Requirements

Reason for Control: CC, AT

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4A994 Computers, ''electronic assemblies'', and related equipment not controlled by 4A001, 4A002, or 4A003, and specially designed components therefor.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Electronic computers and related equipment, and ''electronic assemblies'' and specially designed components therefor, rated for operation at an ambient temperature above 343 K (70° C);
b. ''Digital computers'' having a ''composite theoretical performance'' (''CTP'') equal to or greater than 6 million theoretical operations per second (Mtops);
c. ''Assemblies'' not controlled by 4A003 that are specially designed or modified to enhance performance by aggregation of ''computing elements'' (''Ces''), as follows:
c.1. Designed to be capable of aggregation in configurations of 16 or more ''computing elements'' (''Ces''); or

c.2. Having a sum of maximum data rates on all channels available for connection to associated processors exceeding 40 million Bytes/s;

Note 1: 4A994.c applies only to ''electronic assemblies'' and programmable interconnections with a ''CTP'' not exceeding the limits in 4A994.b, when shipped as unintegrated ''electronic assemblies''. It does not apply to ''electronic assemblies'' inherently limited by nature of their design for use as related equipment controlled by 4A994.

Note 2: 4A994.c does not control any ''electronic assembly'' specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A994.b.

d. Disk drives and solid state storage equipment:

d.1. Magnetic, erasable optical or magneto-optical disk drives with a ''maximum bit transfer rate'' exceeding 25 million bit/s;

d.2. Solid state storage equipment, other than ''main storage'' (also known as solid state disks or RAM disks), with a ''maximum bit transfer rate'' exceeding 36 million bit/s;

e. Input/output control units designed for use with equipment controlled by 4A994.d;

f. Equipment for ''signal processing'' or ''image enhancement'', not controlled by 4A003, having a ''composite theoretical performance'' (''CTP'') exceeding 8.5 million theoretical operations per second (Mtops);

g. Graphics accelerators or graphics coprocessors, not controlled by 4A003, that exceeds a ''3–D vector rate'' of 400,000 or, if supported by 2–D vectors only, a ''2–D vector rate'' of 600,000;

Note: The provisions of 4A994.g do not apply to work stations designed for and limited to:

a. Graphic arts (e.g., printing, publishing); *and*

b. The display of two-dimensional vectors.

h. Color displays or monitors having more than 120 resolvable elements per cm in the direction of the maximum pixel density;

Note 1: 4A994.h does not control displays or monitors not specially designed for electronic computers.

Note 2: Displays specially designed for air traffic control (ATC) systems are treated as specially designed components for ATC systems under Category 6.

i. Equipment containing ''terminal interface equipment'' exceeding the limits in 5A991.

Note: For the purposes of 4A994.i, ''terminal interface equipment'' includes ''local area network'' interfaces, modems and other communications interfaces. ''Local area network'' interfaces are evaluated as ''network access controllers''.

B. Test, Inspection and Production Equipment

4B994 Equipment for the ''development'' and ''production'' of magnetic and optical storage equipment.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control general-purpose sputtering equipment.
Related Definition: N/A
Items: a. Equipment specially designed for the application of magnetic coating to controlled non-flexible (rigid) magnetic or magneto-optical media;

b. ''Stored program controlled'' equipment specially designed for monitoring, grading, exercising or testing controlled rigid magnetic media;

c. Equipment specially designed for the ''production'' or alignment of heads or head/disk assemblies for controlled rigid magnetic and magneto-optical storage, and electro-mechanical or optical components therefor.

C. Materials

4C994 Materials specially formulated for and required for the fabrication of head/disk assemblies for controlled magnetic and magneto-optical hard disk drives.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

D. Software

Note: The control status of ''software'' for the ''development'', ''production'', or ''use'' of equipment described in other Categories is dealt with in the appropriate Category. The control status of ''software'' for equipment described in this Category is dealt with herein.

4D001 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment or ''software'' controlled by 4A001 to 4A004, or 4D (except 4D993 or 4D994).

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	*Country Chart*
NS applies to ''software'' for equipment controlled by 4A001 to 4A004, 4D001 to 4D003.	NS Column 1
MT applies to ''software'' for equipment controlled by 4A001 to 4A003 for MT reasons.	MT Column 1
CC applies to ''software'' for equipment controlled by 4A003 for CC reasons.	CC Column 1
AT applies to entire entry	AT Column 1

NP applies to ''software'' for computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to ''software'' for computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT and for ''software'' for equipment or ''software'' requiring a license and *except* for ''software'' specially designed for the ''development'', or ''production'' of equipment controlled as follows, for exports and reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: (a) ''Digital'' computers controlled by 4A003.b and having a CTP exceeding 10,000 MTOPS; or (b) ''Electronic assemblies'' controlled by 4A003.c and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS.

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D002 ''Software'' specially designed or modified to support ''technology'' controlled by 4E (except 4E980, 4E992, and 4E993).

License Requirements

Reason for Control: NS, MT, AT, NP, XP

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' for equipment controlled by 4E for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

NP applies to ''software'' for computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to ''software'' for computers with a CTP greater than 2,000 Mtops, unless

a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT and for ''software'' specifically designed or modified to support ''technology'' for computers requiring a license.

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D003 Specific ''software'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exception.

License Exceptions

CIV: N/A
TSR: Yes, except 4D003.c

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Operating system ''software'', ''software'' development tools and compilers specially designed for ''multi-data-stream processing'' equipment, in ''source code'';

b. ''Expert systems'' or ''software'' for ''expert system'' inference engines providing both:

b.1. Time dependent rules; and

b.2. Primitives to handle the time characteristics of the rules and the facts;

c. ''Software'' having characteristics or performing functions exceeding the limits in Category 5, Part 2 (''Information Security'');

d. Operating systems specially designed for ''real time processing'' equipment that guarantees a ''global interrupt latency time'' of less than 20 μs.

4D102 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 4A101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D980 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of items controlled by 4A980.

License Requirements

Reason for Control: CC, AT

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4D993 ''Program'' proof and validation ''software'', ''software'' allowing the automatic generation of ''source codes'', and operating system ''software'' not controlled by 4D003 that are specially designed for real time processing equipment.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Program'' proof and validation ''software'' using mathematical and analytical techniques and designed or modified for ''programs'' having more than 500,000 ''source code'' instructions;

b. ''Software'' allowing the automatic generation of ''source codes'' from data acquired on line from external sensors described in the Commerce Control List;

c. Operating system ''software'' not controlled by 4D003 that are specially designed for ''real time processing'' equipment that guarantees a ''global interrupt latency time'' of less than 30 microseconds.

4D994 ''Software'' specially designed or modified for the ''development'', ''production'', or ''use'' of equipment controlled by 4A994, 4B994 and materials controlled by 4C994.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

4E001 ''Technology'' according to the General Technology Note, for the ''development'', ''production'' or ''use'' of equipment or ''software'' controlled by 4A or 4D (except 4A980, 4A993 or 4A994).

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	*Country Chart*
NS applies to ''technology'' for equipment controlled by 4A001 to 4A004, 4D001 to 4D003.	NS Column 1
MT applies to ''technology'' for items controlled by 4A001 to 4A003, 4A101, 4D001, 4D102 or 4D002 for MT reasons.	MT Column 1
CC applies to ''technology'' for equipment controlled by 4A003 for CC reasons.	CC Column 1
AT applies to entire entry	AT Column 1

NP applies to ''technology'' for computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to ''technology'' for computers with a CTP greater than 2,000 Mtops, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes for ''technology'' directly related for hardware under a License Exception. N/A for MT and for ''technology'' for the ''development'' or ''production'' of equipment or ''software'' for export and reexport to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for: (a) ''Digital'' computers controlled by 4A003.b and having a CTP exceeding 10,000 MTOPS; or (b) ''Electronic assemblies'' controlled by 4A003.c and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS.

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4E980 ''Technology'' for the ''development'', ''production'', or ''use'' of items controlled by 4A980.

License Requirements

Reason for Control: CC, AT

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4E992 "Technology" for the "development", "production", or "use" of equipment controlled by 4A994 and 4B994, materials controlled by 4C994, or "software" controlled by 4D993 or 4D994.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: See also 4E994
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

4E993 Other "Technology" for the "development" or "production" of graphics accelerators or equipment designed for "multi-data-stream processing" and "technology" "required" for the "development" or "production" of magnetic hard disk drives.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. "Technology" for the "development" or "production" of graphics accelerators;

b. "Technology", for the "development" or "production" of equipment designed for "multi-data-stream processing";

c. "Technology", "required" for the "development" or "production" of magnetic hard disk drives with a "maximum bit transfer rate" ("MBTR") exceeding 11 Mbit/s.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Technical Note: "COMPOSITE THEORETICAL PERFORMANCE" ("CTP").

Abbreviations used in this Technical Note

"CE" "computing element" (typically an arithmetic logical unit)
FP floating point
XP fixed point
t execution time
XOR exclusive OR
CPU central processing unit
TP theoretical performance (of a single "CE")
"CTP" "composite theoretical performance" (multiple "CEs")
R effective calculating rate
WL word length
L word length adjustment
* multiply

Execution time t is expressed in microseconds, TP and "CTP" are expressed in millions of theoretical operations per second (Mtops) and WL is expressed in bits.

Outline of "CTP" Calculation Method

"CTP" is a measure of computational performance given in Mtops. In calculating the "CTP" of an aggregation of "CEs" the following three steps are required:

1. Calculate the effective calculating rate R for each "CE";
2. Apply the word length adjustment (L) to the effective calculating rate (R), resulting in a Theoretical Performance (TP) for each "CE";
3. If there is more than one "CE", combine the TPs, resulting in a "CTP" for the aggregation.

Details for these steps are given in the following sections.

Note 1: For aggregations of multiple "CEs" that have both shared and unshared memory subsystems, the calculation of "CTP" is completed hierarchically, in two steps: first, aggregate the groups of "CEs" sharing memory; second, calculate the "CTP" of the groups using the calculation method for multiple "CEs" not sharing memory.

Note 2: "CEs" that are limited to input/output and peripheral functions (e.g., disk drive, communication and video display controllers) are not aggregated into the "CTP" calculation.

The following table shows the method of calculating the Effective Calculating Rate R for each "CE":

Step 1: *The effective calculating rate R*

	Effective calculating Rate, R
XP only (R_{xp})	$1 \div 3 * (t_{xp\ add})$, if no add is implemented use: $1 \div (t_{xp\ mult})$ If neither add nor multiply is implemented use the fastest available arithmetic operation as follows: $1 \div 3 * t_{xp}$. See Notes X & Z.
FP only (R_{fp})	max $1 \div t_{fp\ add}$, $1 \div t_{fp\ mult}$, See Notes X & Y.
Both FP and XP (R)	Calculate both R_{xp}, R_{fp}.
For simple logic processors not implementing any of the specified arithmetic operations.	$1 \div 3 * t_{log}$. Where t_{log} is the execute time of the XOR, or for logic hardware not implementing the XOR, the fastest simple logic operation. See Notes X & Z.
For special logic processors not using any of the specified arithmetic or logic operations.	R = R′ * WL/64. Where R′ is the number of results per second, WL is the number of *bits* upon which the logic operation occurs, and 64 is a factor to normalize to a 64 bit operation.

Note W: For a pipelined "CE" capable of executing up to one arithmetic or logic operation every clock cycle after the pipeline is full, a pipelined rate can be established. The effective calculating rate (R) for such a "CE" is the faster of the pipelined rate or non-pipelined execution rate.

Note X: For a "CE" that performs multiple operations of a specific type in a single cycle (e.g., two additions per cycle or two identical logic operations per cycle), the execution time t is given by:

$$t = \frac{\text{cycle time}}{\text{the number of identical operations per machine cycle}}$$

"CEs" that perform different types of arithmetic or logic operations in a single machine cycle are to be treated as multiple separate "CEs" performing simultaneously (e.g., a "CE" performing an addition and a multiplication in one cycle is to be treated as two "CEs", the first performing an addition in one cycle and the second performing a multiplication in one cycle). If a single "CE" has both scalar function and vector function, use the shorter execution time value.

Note Y: For the "CE" that does not implement FP add or FP multiply, but that performs FP divide:

$$R_{fp} = \frac{1}{t_{fpdivide}}$$

If the ''CE'' implements FP reciprocal but not FP add, FP multiply or FP divide, then

$$R_{fp} = \frac{1}{t_{fpreciprocal}}$$

If none of the specified instructions is implemented, the effective FP rate is 0.

Note Z: In simple logic operations, a single instruction performs a single logic manipulation of no more than two operands of given lengths. In complex logic operations, a single instruction performs multiple logic manipulations to produce one or more results from two or more operands.

Rates should be calculated for all supported operand lengths considering both pipelined operations (if supported), and non-pipelined operations using the fastest executing instruction for each operand length based on:

1. Pipelined or register-to-register operations. Exclude extraordinarily short execution times generated for operations on a predetermined operand or operands (for example, multiplication by 0 or 1). If no register-to-register operations are implemented, continue with (2).
2. The faster of register-to-memory or memory-to-register operations; if these also do not exist, then continue with (3).
3. Memory-to-memory.

In each case above, use the shortest execution time certified by the manufacturer.

Step 2: *TP for each supported operand length WL.*

Adjust the effective rate R (or R') by the word length adjustment L as follows:

TP = R * L, where L = (1/3 + WL/96)

Note: The word length WL used in these calculations is the operand length in bits. (If an operation uses operands of different lengths, select the largest word length.) The combination of a mantissa ALU and an exponent ALU of a floating point processor or unit is considered to be one ''CE'' with a Word Length (WL) equal to the number of bits in the data representation (typically 32 or 64) for purposes of the ''CTP'' calculation.

This adjustment is not applied to specialized logic processors that do not use XOR instructions. In this case TP = R.

Select the maximum resulting value of TP for:

Each XP-only ''CE'' (R_{xp});
Each FP-only ''CE'' (R_{fp});
Each combined FP and XP ''CE'' (R);
Each simple logic processor not implementing any of the specified arithmetic operations; and
Each special logic processor not using any of the specified arithmetic or logic operations.

Step 3: *''CTP'' for aggregations of ''CEs'', including CPUs.*

For a CPU with a single ''CE'', ''CTP'' = TP (for ''CEs'' performing both fixed and floating point operations TP = max (TP_{fp}, TP_{xp}))

''CTP'' for aggregations of multiple ''CEs'' operating simultaneously is calculated as follows:

Note 1: For aggregations that do not allow all of the ''CEs'' to run simultaneously, the possible combination of ''CEs'' that provides the largest ''CTP'' should be used. The TP of each contributing ''CE'' is to be calculated at its maximum value theoretically possible before the ''CTP'' of the combination is derived.

N.B.: To determine the possible combinations of simultaneously operating ''CEs'', generate an instruction sequence that initiates operations in multiple ''CEs'', beginning with the slowest ''CE'' (the one needing the largest number of cycles to complete its operation) and ending with the fastest ''CE''. At each cycle of the sequence, the combination of ''CEs'' that are in operation during that cycle is a possible combination. The instruction sequence must take into account all hardware and/or architectural constraints on overlapping operations.

Note 2: A single integrated circuit chip or board assembly may contain multiple ''CEs''.

Note 3: Simultaneous operations are assumed to exist when the computer manufacturer claims concurrent, parallel or simultaneous operation or execution in a manual or brochure for the computer.

Note 4: ''CTP'' values are not to be aggregated for ''CE'' combinations (inter) connected by ''Local Area Networks'', Wide Area Networks, I/O shared connections/ devices, I/O controllers and any communication interconnection implemented by ''software''.

Note 5: ''CTP'' values must be aggregated for multiple ''CEs'' specially designed to enhance performance by aggregation, operating simultaneously and sharing memory,—or multiple memory/''CE''— combinations operating simultaneously utilizing specially designed hardware.

This aggregation does not apply to ''electronic assemblies'' described by 4A003.d.

''CTP''=TP_1+C_2 * TP_2+* * *+C_n * TP_n,

where the TPs are ordered by value, with TP_1 being the highest, TP_2 being the second highest, * * *, and TP_n being the lowest. C_i is a coefficient determined by the strength of the interconnection between ''CEs'', as follows:

For multiple ''CEs'' operating simultaneously and sharing memory:

C_2=C_3=C_4=* * *=C_n=0.75

Note 1: When the ''CTP'' calculated by the above method does not exceed 194 Mtops, the following formula may be used to calculate C_i:

$$C_i = \frac{0.75}{\sqrt{m}} \qquad (i = 2, \ldots, n)$$

where m=the number of ''CEs'' or groups of ''CEs'' sharing access.

Provided:

1. The TP_1 of each ''CE'' or group of ''CEs'' does not exceed 30 Mtops;
2. The ''CEs'' or groups of ''CEs'' share access to main memory (excluding cache memory) over a single channel; and
3. Only one ''CE'' or group of ''CEs'' can have use of the channel at any given time.

N.B.: This does not apply to items controlled under Category 3.

Note 2: ''CEs'' share memory if they access a common segment of solid state memory. This memory may include cache memory, main memory or other internal memory. Peripheral memory devices such as disk drives, tape drives or RAM disks are not included.

For Multiple ''CEs'' or groups of ''CEs'' not sharing memory, interconnected by one or more data channels:

C_i=0.75 * k_i (i=2, * * * , 32) (see Note below)
=0.60 * k_i (i=33, * * *, 64)
=0.45 * k_i (i=65, * * *, 256)
=0.30 * k_i (i >256)

The value of C_i is based on the number of ''CE''s, not the number of nodes.

where
k_i=min (S_i/K_r, 1), and
K_r=normalizing factor of 20 MByte/s.
S_i=sum of the maximum data rates (in units of MByte/s) for all data channels connected to the ith ''CE'' or group of ''CEs'' sharing memory.

When calculating a C_i for a group of ''CEs'', the number of the first ''CE'' in a group determines the proper limit for C_i. For example, in an aggregation of groups consisting of 3 ''CEs'' each, the 22nd group will contain ''CE''$_{64}$, ''CE''$_{65}$ and ''CE''$_{66}$. The proper limit for C_i for this group is 0.60.

Aggregation (of ''CEs'' or groups of ''CEs'') should be from the fastest-to-slowest; i.e.:

$TP_1 \geq TP_2 \geq$ * * * . >TP_n, and

in the case of TP_i=TP_{i+1}, from the largest to smallest; i.e.:

$C_i \geq C_{i+1}$

Note: The k_i factor is not to be applied to ''CEs'' 2 to 12 if the TP_i of the ''CE'' or group of ''CEs'' is more than 50 Mtops; i.e., C_i for ''CEs'' 2 to 12 is 0.75.

Category 5—Telecommunications and ''Information Security''

I. Telecommunications

Notes: 1. The control status of components, ''lasers'', test and ''production'' equipment, materials and ''software'' therefor which are specially designed for telecommunications equipment or systems is determined in Category 5, Part 1.

2. ''Digital computers'', related equipment or ''software'', when essential for the operation and support of telecommunications equipment described in this Category, are regarded as specially designed components, provided they are the standard models customarily supplied by the manufacturer. This includes operation, administration, maintenance, engineering or billing computer systems.

A. Systems, Equipment and Components

5A001 Telecommunications systems, equipment, and components.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to 5A001.a	NS Column 1
NS applies to 5A001.b, .c, .d, or .e.	NS Column 2

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: N/A for 5A001.a and b.9;
$5000 for 5A001.b.1 to b.8 and b.10, .c, and .e
$3000 for 5A001.d
GBS: Yes, except 5A001.a and b.9
CIV: Yes, except 5A001.a, b.8, and b.9

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 5A101 and 5A991
Related Definitions: N/A
Items: a. Any type of telecommunications equipment having any of the following characteristics, functions or features:

a.1. Specially designed to withstand transitory electronic effects or electromagnetic pulse effects, both arising from a nuclear explosion;

a.2. Specially hardened to withstand gamma, neutron or ion radiation; *or*

a.3. Specially designed to operate outside the temperature range from 218 K (−55°C) to 397 K (124°C).

Note: 5A001.a.3 applies only to electronic equipment.

Note: 5A001.a.2 and 5A001.a.3 do not apply to equipment on board satellites.

b. Telecommunication transmission equipment and systems, and specially designed components and accessories therefor, having any of the following characteristics, functions or features:

Note: Telecommunication transmission equipment:

a. Categorized as follows, or combinations thereof:

1. Radio equipment (e.g., transmitters, receivers and transceivers);
2. Line terminating equipment;
3. Intermediate amplifier equipment;
4. Repeater equipment;
5. Regenerator equipment;
6. Translation encoders (transcoders);
7. Multiplex equipment (statistical mutiplex included);
8. Modulators/demodulators (modems);
9. Transmultiplex equipment (see CCITT Rec. G701);
10. ''Stored program controlled'' digital crossconnection equipment;
11. ''Gateways'' and bridges;
12. ''Media access units''; and

b. Designed for use in single or multi-channel communication via any of the following:

1. Wire (line);
2. Coaxial cable;
3. Optical fiber cable;
4. Electromagnetic radiation; or
5. Underwater acoustic wave propagation.

b.1. Employing digital techniques, including digital processing of analog signals, and designed to operate at a ''digital transfer rate'' at the highest multiplex level exceeding 45 Mbit/s or a ''total digital transfer rate'' exceeding 90 Mbit/s;

Note: 5A001.b.1 does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

b.2. Being underwater communications systems having any of the following characteristics:

b.2.a. An acoustic carrier frequency outside the range from 20 kHz to 60 kHz;

b.2.b. Using an electromagnetic carrier frequency below 30 kHz; or

b.2.c. Using electronic beam steering techniques;

b.3. Being equipment containing any of the following:

b.3.a. ''Network access controllers'' and their related common medium having a ''digital transfer rate'' exceeding 156 Mbit/s; or

b.3.b. ''Communication channel controllers'' with a digital output having a ''data signalling rate'' exceeding 2.1 Mbit/s per channel;

Note: If any uncontrolled equipment contains a ''network access controller'', it cannot have any type of telecommunications interface, except those described in, but not controlled by 5A001.b.3.

b.4. Employing a ''laser'' and having any of the following characteristics:

b.4.a. A transmission wavelength exceeding 1,000 nm; or

b.4.b. Employing analog techniques and having a bandwidth exceeding 45 MHz;

Note: 5A001.b.4.b does not control commercial TV systems.

b.4.c. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);

b.4.d. Employing wavelength division multiplexing techniques; or

b.4.e. Performing ''optical amplification'';

b.5. Being radio equipment operating at input or output frequencies exceeding 31 GHz;

Note: 5A001.b.5 does not control equipment designed or modified for operation in any ITU allocated band.

b.6. Being radio equipment employing any of the following:

b.6.a. Quadrature-amplitude-modulation (QAM) techniques above level 4 if the ''total digital transfer rate'' exceeds 8.5 Mbit/s;

b. QAM techniques above level 16 if the ''total digital transfer rate'' is equal to or less than 8.5 Mbit/s; or

c. Other digital modulation techniques and having a ''spectral efficiency'' exceeding 3 bit/sec/Hz;

Notes: 1. 5A001.b.6 does not control equipment specially designed to be integrated and operated in any satellite system for civil use.02

2. 5A001.b.6 does not control radio relay equipment for operation in an ITU allocated band:

a. Having any of the following:

a.1. Not exceeding 960 MHz; or

a.2. With a ''total digital transfer rate'' not exceeding 8.5 Mbit/s; and

b. Having a ''spectral efficiency'' not exceeding 4 bit/sec/Hz.

b.7. Being radio equipment operating in the 1.5 MHz to 87.5 MHz band and having any of the following characteristics:

b.7.a. Incorporating adaptive techniques providing more than 15 dB suppression of an interfering signal; or

b.7.b. Having all of the following:

b.7.b.1. Automatically predicting and selecting frequencies and ''total digital transfer rates'' per channel to optimize the transmission; and

b.7.b.2. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of 1 kW or more in the 1.5 MHz to 30 MHz frequency range or 250 W or more in the 30 MHz to 87.5 MHz frequency range, over an ''instantaneous bandwidth'' of one octave or more and with an output harmonic and distortion content of better than -80 dB;

b.8. Being radio equipment employing ''spread spectrum'' or ''frequency agility'' (frequency hopping) techniques having any of the following characteristics:

b.8.a. User programmable spreading codes; or

b.8.b. A total transmitted bandwidth which is 100 or more times the bandwidth of any one information channel and in excess of 50 kHz;

Note: 5A001.b.8.b does not control cellular radio equipment operating in civil bands.

Note: 5A001.b.8 does not control equipment operating at an output power of 1.0 Watt or less.

b.9. Being digitally controlled radio receivers having all of the following:

b.9.a. More than 1,000 channels;

b.9.b. A ''frequency switching time'' of less than 1 ms;

b.9.c. Automatic searching or scanning of a part of the electromagnetic spectrum; and

b.9.d. Identification of the received signals or the type of transmitter; or

Note: 5A001.b.9 does not control cellular radio equipment operating in civil bands.

b.10. Employing functions of digital ''signal processing'' to provide voice coding at rates of less than 2,400 bit/s.

c. ''Stored program controlled'' switching equipment and related signalling systems, having any of the following characteristics, functions or features, and specially designed components and accessories therefor:

Note: Statistical multiplexers with digital input and digital output which provide switching are treated as ''stored program controlled'' switches.

c.1. ''Common channel signalling'' operating in either non-associated or quasi-associated mode of operation;

c.2. ''Dynamic adaptive routing'';

Note: 5A001.c.2 does not control packet switches or routers with ports or lines not exceeding the limits in 5A001.c.3.

c.3. Being packet switches, circuit switches and routers with ports or lines exceeding any of the following:

c.3.a. A ''data signalling rate'' of 2.1 Mbit/s per channel for a ''communications channel controller''; or

Note: 5A001.c.3.a does not control multiplexed composite links composed only of communication channels not individually controlled by 5A001.c.3.a.

c.3.b. A ''digital transfer rate'' of 156 Mbit/s for a ''network access controller'' and related common medium;

c.4. ''Optical switching'';

c.5. Employing ''Asynchronous Transfer Mode'' (''ATM'') techniques.

d. Optical fiber communication cables, optical fibers and accessories, as follows:

d.1. Optical fibers and optical fiber cables of more than 50 m in length having any of the following characteristics:

d.1.a. Designed for single mode operation; or

d.1.b. For optical fibers, specified by the manufacturer as being capable of withstanding a proof test tensile stress of 2×10^9 N/m² or more;

Technical Note: Proof Test: on-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20° C) and relative humidity 40%.

N.B.: Equivalent national standards may be used for executing the proof test.

d.2. Optical fiber cables and accessories designed for underwater use.

Note: 5A001.d.2 does not control standard civil telecommunication cables and accessories.

N.B.: For fiber-optic hull penetrators or connectors, see 8A002.c.

e. ''Electronically steerable phased array antennae'' operating above 31 GHz.

Note: 5A001.e does not control ''electronically steerable phased array antennae'' for landing systems with instruments meeting ICAO standards covering microwave landing systems (MLS).

5A101 Telemetering and telecontrol equipment usable for ''missiles''.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A980 Communications intercepting devices; and parts and accessories therefor.

License Requirements

Reason for Control: Controls on equipment described in this entry are maintained in accordance with the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90–351). A license is required for ALL destinations, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See § 742.13 of the EAR for additional information on the scope of this control.)

Note: These items are subject to the United Nations Security Council arms embargo against Rwanda described in § 746.8 of the EAR.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5A991 Telecommunication equipment, not controlled by 5A001.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Any type of telecommunications equipment, not controlled by 5A001.a, specially designed to operate outside the temperature range from 219 K (−54° C) to 397 K (124° C).

b. Transmission equipment, as follows:

b.1. Modems using the ''bandwidth of one voice channel'' with a ''data signalling rate'' exceeding 9,600 bits per second;

b.2. ''Communication channel controllers'' with a digital output having a ''data signalling rate'' exceeding 64,000 bit/s per channel; or

b.3. ''Network access controller'' and their related common medium having a ''digital transfer rate'' exceeding 33 Mbit/s.

b.4. Being ''stored program controlled'' digital cross connect equipment with ''digital transfer rate'' exceeding 8.5 Mbit/s per port.

b.5. Radio equipment operating at input or output frequencies exceeding:

b.5.1. 31 GHz for satellite-earth station applications; or

b.5.2. 26.5 GHz for other applications;

Note: 5A991.b.5. does not control equipment for civil use when conforming with an International Telecommunications Union (ITU) allocated band between 26.5 GHz and 31 GHz.

b.6. Providing functions of digital ''signal processing'' as follows:

b.6.a. Voice coding at rates less than 2,400 bit/s;

b.6.b. Employing circuitry that incorporates ''user-accessible programmability'' of digital ''signal processing'' circuits exceeding the limits of 4A003.b.

c. ''Stored program controlled'' switching equipment and related signalling systems as follows:

c.1. ''Data (message) switching'' equipment or systems designed for ''packet-mode operation'' and assemblies and components therefor, n.e.s.

c.2. Containing ''Integrated Services Digital Network'' (ISDN) functions and having any of the following:

c.2.a. Switch-terminal (e.g., subscriber line) interfaces with a ''digital transfer rate'' at the highest multiplex level exceeding 192,000 bit/s, including the associated signalling channel (e.g., 2B+D); or

c.2.b. The capability that a signalling message received by a switch on a given channel that is related to a communication on another channel may be passed through to another switch.

Note: 5A991.b. does not preclude the evaluation and appropriate actions taken by the receiving switch or unrelated user message traffic on a D channel of ISDN.

c.3. Routing or switching of ''datagram'' packets;

c.4. Routing or switching of ''fast select'' packets;

Note: The restrictions in 5A991.c.3 and c.4 do not apply to networks restricted to using only ''network access controllers'' or to ''network access controllers'' themselves.

c.5. Multi-level priority and pre-emption for circuit switching;

Note: 5A991.c.5. does not control single-level call preemption.

c.6. Designed for automatic hand-off of cellular radio calls to other cellular switches or automatic connection to a centralized subscriber data base common to more than one switch;

c.7. Containing ''stored program controlled'' digital crossconnect equipment with ''digital transfer rate'' exceeding 8.5 Mbit/s per port.

c.8. Being packet switches, circuit switches and routers with ports or lines exceeding any of the following:

c.8.a. A ''data signalling rate'' of 64,000 bit/s per channel for a ''communications channel controller''; or

Note: 5A991.c.8.a. does not control multiplex composite links composed only of communication channels not individually controlled by 5A001.b.1.

c.8.b. A ''digital transfer rate'' of 33 Mbit/s for a ''network cess controller'' and related common media;

d. Centralized network control having all of the following characteristics:

d.1. Receives data from the nodes; and

d.2. Process these data in order to provide control of traffic not requiring operator decisions, and thereby performing ''dynamic adaptive routing'';

Note: 5A991.d. does not preclude control of traffic as a function of predictable statistical traffic conditions.

e. Phased array antennae, operating above 10.5 GHz, containing active elements and distributed components, and designed to permit electronic control of beam shaping and pointing, except for landing systems with instruments meeting International Civil

Aviation Organization (ICAO) standards (microwave landing systems (MLS)).

f. Mobile communications equipment, n.e.s., and assemblies and components therefor; *or*

g. Radio relay communications equipment designed for use at frequencies equal to or exceeding 19.7 GHz and assemblies and components therefor, n.e.s.

B. Test, Inspection and Production Equipment

5B001 Equipment and specially designed components or accessories therefor, specially designed for the ''development'', ''production'' or ''use'' of equipment, materials, functions or features controlled by 5A001, 5B001, 5C001, 5D001 or 5E001.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 5B991. This entry does not control optical fibers and ''optical fiber preform'' characterization equipment not using semiconductor ''lasers''.
Related Definition: N/A
Items: The List of Items Controlled is contained in the ECCN heading.

5B991 Telecommunications test equipment, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1,000 for Syria; N/A to Iran
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

C. Materials

5C001 Preforms of glass or of any other material optimized for the manufacture of optical fibers controlled by 5A001.d.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

D. Software

5D001 ''Software'', as described in the List of Items Controlled.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: Yes, except for ''software'' controlled by 5D001.b or .c, when specially designed or modified for equipment, functions or features controlled by 5A001.b.9
TSR: Yes, except for exports and reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''software'' controlled by 5D001.a and specially designed for items controlled by 5A001.b.9

List of Items Controlled

Unit: $ value
Related Controls: See also 5D991
Related Definitions: N/A
Items: a. ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment, functions or features controlled by 5A001, 5B001 or 5C001.

b. ''Software'' specially designed or modified to support ''technology'' controlled by 5E001.

c. Specific ''software'' as follows:

c.1. ''Software'', other than in machine-executable form, specially designed or modified for the ''use'' of digital cellular radio equipment or systems;

c.2. ''Software'' specially designed or modified to provide characteristics, functions or features of equipment controlled by 5A001 or 5B001;

c.3. ''Software'' which provides the capability of recovering ''source code'' of telecommunications ''software'' controlled by 5A001, 5B001, or 5C001;

c.4. ''Software'', other than in machine-executable form, specially designed for ''dynamic adaptive routing''.

N.B.: For ''software'' for ''signal processing'' see also 4D and 6D.

5D101 ''Software'' designed or modified for the ''development'', ''production'' or ''use of items controlled by 5A101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5D991 ''Software'' specially designed or modified for the ''development'', ''production'', or ''use'' of equipment controlled by 5A991 and 5B991.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

5E001 ''Technology'', (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' controlled by 5E001.a for the ''development'' or ''production'' of items controlled by 5A001.b.9 or 5D001.a.

List of Items Controlled

Unit: $ value
Related Controls: See also 5E101 and 5E991
Related Definitions: N/A
Items: a. ''Technology'' according to the General Technology Note for the ''development'', ''production'' or ''use''

(excluding operation) of equipment, functions or features, materials or ''software'' controlled by 5A001, 5B001, 5C001 or 5D001.

b. Specific ''technologies'', as follows:

b.1. ''Required'' ''technology'' for the ''development'' or ''production'' of telecommunications equipment specially designed to be used on board satellites;

b.2. ''Technology'' for the ''development'' or ''use'' of ''laser'' communication techniques with the capability of automatically acquiring and tracking signals and maintaining communications through exoatmosphere or sub-surface (water) media;

b.3. ''Technology'' for the processing and application of coatings to optical fiber specially designed to make it suitable for underwater use;

b.4. ''Technology'' for the ''development'' of equipment employing ''Synchronous Digital Hierarchy'' (''SDH'') or ''Synchronous Optical Network'' (''SONET'') techniques;

b.5. ''Technology'' for the ''development'' of ''switch fabric'' exceeding 64,000 bit/s per information channel other than for digital cross connect integrated in the switch;

b.6. ''Technology'' for the ''development'' of centralized network control or ''dynamic adaptive routing'';

b.7. ''Technology'' for the ''development'' of digital cellular radio systems;

b.8. ''Technology'' for the ''development'' of broadband ''Integrated Services Digital Network'' (''ISDN'');

b.9. ''Technology'' for the ''development'' of QAM techniques, for radio equipment, above level 4;

b.10. ''Technology'' for the ''development'' of ''spread spectrum'' or ''frequency agility'' (frequency hopping) techniques.

5E101 ''Technology'' according to the General Technology Note for the ''development'', ''production'' or ''use'' of equipment controlled by 5A101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E111 ''Technology'' according to the General Technology Note for the ''development'', ''production'', or ''use'' of ''software'' controlled by 5D101.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E991 ''Technology'' for the ''development'', ''production'' or ''use'' of equipment controlled by 5A991 or 5B991, or ''software'' controlled by 5D991.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Part 2—''Information Security''

Note: The control status of ''information security'' equipment, ''software'', systems, application specific ''electronic assemblies'', modules, integrated circuits, components, or functions is determined in Category 5, Part 2 even if they are components or ''electronic assemblies'' of other equipment.

A. Systems, Equipment and Components

5A002 Systems, equipment, application specific ''assemblies'', modules or integrated circuits for ''information security'', and specially designed components therefor.

License Requirements

Reason for Control: NS, AT, EI

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

EI applies to encryption items transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date. Refer to § 742.15 of the EAR.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 5A992. This entry does not control: (a) ''Personalized smart cards'' or specially designed components therefor, with any of the following characteristics: (1) Not capable of message traffic encryption or encryption of user-supplied data or related key management functions therefor; or (2) When restricted for use in equipment or systems excluded from control under the note to 5A002.c, or under paragraphs b through h of this note. (b) Equipment containing ''fixed'' data compression or coding techniques; (c) Receiving equipment for radio broadcast, pay television or similar restricted audience television of the consumer type, without digital encryption and where digital decryption is limited to the video, audio or management functions; (d) Portable or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radiocommunications systems) that are not capable of end-to-end encryption; (e) Decryption functions specially designed to allow the execution of copy-protected ''software'', provided the decryption functions are not user-accessible; (f) Access control equipment, such as automatic teller machines, self-service statement printers or point of sale terminals, that protects password or personal identification numbers (PIN) or similar data to prevent unauthorized access to facilities but does not allow for encryption of files or text, except as directly related to the password or PIN protection; (g) Data authentication equipment that calculates a Message Authentication Code (MAC) or similar result to ensure no alteration of text has taken place, or to authenticate users, but does not allow for encryption of data, text or other media other than that needed for the authentication; (h) Cryptographic equipment specially designed and limited for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers or point of sale terminals.
Related Definitions: For the control of global navigation satellite systems receiving equipment containing or employing decryption (i.e., GPS or GLONASS see 7A005)
Items: a. Systems, equipment, application specific ''assemblies'', modules or integrated circuits for ''information security'', and specially designed components therefor:

a.1. Designed or modified to use ''cryptography'' employing digital techniques to ensure ''information security'';

a.2. Designed or modified to perform cryptoanalytic functions;

a.3. Designed or modified to use ''cryptography'' employing analog techniques to ensure ''information security'';

Note: 5A002.a.3 does not control the following:

1. Equipment using ''fixed'' band scrambling not exceeding 8 bands and in which the transpositions change not more frequently than once every second;

2. Equipment using ''fixed'' band scrambling exceeding 8 bands and in which the transpositions change not more frequently than once every ten seconds;

3. Equipment using ''fixed'' frequency inversion and in which the transpositions change not more frequently than once every second;

4. Facsimile equipment;

5. Restricted audience broadcast equipment; *and*

6. Civil television equipment;

a.4. Designed or modified to suppress the compromising emanations of information-bearing signals;

Note: 5A002.a.4 does not control equipment specially designed to suppress emanations for reasons of health and safety.

a.5. Designed or modified to use cryptographic techniques to generate the spreading code for ''spread spectrum'' or the hopping code for ''frequency agility'' systems;

a.6. Designed or modified to provide certified or certifiable ''multilevel security'' or user isolation at a level exceeding Class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) or equivalent;

a.7. Communications cable systems designed or modified using mechanical, electrical or electronic means to detect surreptitious intrusion.

5A992 ''Information security'' equipment, n.e.s.; (e.g., cryptographic, cryptoanalytic, and cryptologic equipment, n.e.s.), and components therefor.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

5B002 Information Security—test, inspection and ''production'' equipment.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Equipment specially designed for:

a.1. The ''development'' of equipment or functions controlled by 5A002, 5B002, 5D002 or 5E002, including measuring or test equipment;

a.2. The ''production'' of equipment or functions controlled by 5A002, 5B002, 5D002, or 5E002, including measuring, test, repair or production equipment;

b. Measuring equipment specially designed to evaluate and validate the ''information security'' functions controlled by 5A002 or 5D002.

C. Materials [Reserved]

D. Software

5D002 Information Security—''Software''.

License Requirements

Reason for Control: NS, AT, EI

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

EI applies to encryption items transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date. Refer to § 742.15 of the EAR.

Note: Encryption software is controlled because of its functional capacity, and not because of any informational value of such software; such software is not accorded the same treatment under the EAR as other ''software''; and for the export licensing purposes encryption software is treated under the EAR in the same manner as a commodity included in ECCN 5A002. License Exceptions for commodities are not applicable.

Note: Encryption software controlled for EI reasons under this entry remains subject to the EAR even when made publicly available in accordance with part 734 of the EAR, and it is not eligible for the General Software Note (''mass market'' treatment under License Exception TSU for mass market software). After a one-time BXA review, certain encryption software may be released from EI controls and made eligible for the General Software Note treatment as well as other provisions of the EAR applicable to software. Refer to § 742.15(b)(1) of the EAR and Supplement No. 6 to part 742 of the EAR.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 5D992. This entry does not control ''software'' ''required'' for the ''use'' of equipment excluded from control under 5A002 or ''software'' providing any of the functions of equipment excluded from control under 5A002
Related Definitions: N/A
Items: a. ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment or ''software'' controlled by 5A002, 5B002 or 5D002.

b. ''Software'' specially designed or modified to support ''technology'' controlled by 5E002.

c. Specific ''software'' as follows:

c.1. ''Software'' having the characteristics, or performing or simulating the functions of the equipment controlled by 5A002 or 5B002;

c.2. ''Software'' to certify ''software'' controlled by 5D002.c.1.

5D992 ''Software'' not controlled by 5D002.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to 5D992.a and .b.	AT Column 1
AT applies to 5D992.c	AT Column 2

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. ''Software'', specially designed or modified for the ''development'', ''production'', or ''use'' of information security or cryptologic equipment (e.g., equipment controlled by 5A992)

b. ''Software'' having the characteristics, or performing or simulating the functions of the equipment controlled by 5A992.

c. ''Software'' designed or modified to protect against malicious computer damage, e.g., viruses.

E. Technology

5E002 ''Technology'' according to the General Technology Note for the ''development'', ''production'' or ''use'' of equipment controlled by 5A002 or 5B002 or ''software'' controlled by 5D002.

License Requirements

Reason for Control: NS, AT, EI

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

EI applies to encryption items transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date.

Refer to § 742.15 of the EAR

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: See also 5E992

Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

5E992 "Technology", n.e.s., for the "development", "production", or "use" of "information security" or cryptologic equipment (e.g., equipment controlled by 5A992), or "software" controlled by 5D992.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 6—Sensors and Lasers

A. Systems, Equipment and Components

6A001 Acoustics.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $3000; N/A for 6A001.a.2.a.1, a.2.a.2, a.2.a.7, a.2.b; processing equipment controlled by 6A002.a.2.c, and specially designed for real time application with towed acoustic hydrophone arrays; a.2.e.1, a.2.e.2; and bottom or bay cable systems controlled by 6A002.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems
GBS: Yes for 6A001.a.1.b.4
CIV: Yes for 6A001.a.1.b.4

List of Items Controlled

Unit: $ value
Related Controls: See also 6A991
Related Definitions: N/A
Items: a. Marine acoustic systems, equipment and specially designed components therefor, as follows: a.1. Active (transmitting or transmitting-and-receiving) systems, equipment and specially designed components therefor, as follows:

Note: 6A001.a.1 does not control:

a. Depth sounders operating vertically below the apparatus, not including a scanning function exceeding ±20°, and limited to measuring the depth of water, the distance of submerged or buried objects or fish finding;

b. Acoustic beacons, as follows:

1. Acoustic emergency beacons;

2. Pingers specially designed for relocating or returning to an underwater position.

a.1.a. Wide-swath bathymetric survey systems designed for sea bed topographic mapping, having all of the following:

a.1.a.1. Being designed to take measurements at an angle exceeding 20° from the vertical;

a.1.a.2. Being designed to measure depths exceeding 600 m below the water surface; and

a.1.a.3. Being designed to provide any of the following:

a.1.a.3.a. Incorporation of multiple beams any of which is less than 1.9°; or

a.1.a.3.b. Data accuracies of better than 0.3% of water depth across the swath averaged over the individual measurements within the swath;

a.1.b. Object detection or location systems having any of the following:

a.1.b.1. A transmitting frequency below 10 Khz;

a.1.b.2. Sound pressure level exceeding 224 Db (reference 1 μPa at 1 m) for equipment with an operating frequency in the band from 10 Khz to 24 Khz inclusive;

a.1.b.3. Sound pressure level exceeding 235 Db (reference 1 μPa at 1 m) for equipment with an operating frequency in the band between 24 Khz and 30 Khz;

a.1.b.4. Forming beams of less than 1° on any axis and having an operating frequency of less than 100 Khz;

a.1.b.5. Designed to operate with an unambiguous display range exceeding 5,120 m; *or*

a.1.b.6. Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers with any of the following:

a.1.b.6.a. Dynamic compensation for pressure; *or*

a.1.b.6.b. Incorporating other than lead zirconate titanate as the transduction element;

a.1.c. Acoustic projectors, including transducers, incorporating piezoelectric, magnetostrictive, electrostrictive, electrodynamic or hydraulic elements operating individually or in a designed combination, having any of the following:

Notes: 1. The control status of acoustic projectors, including transducers, specially designed for other equipment is determined by the control status of the other equipment.

2. 6A001.a.1.c does not control electronic sources that direct the sound vertically only, or mechanical (e.g., air gun or vapor-shock gun) or chemical (e.g., explosive) sources.

a.1.c.1. An instantaneous radiated acoustic power density exceeding 0.01 $mW/mm^2/Hz$ for devices operating at frequencies below 10 Khz;

a.1.c.2. A continuously radiated acoustic power density exceeding 0.001 $Mw/mm^2/Hz$ for devices operating at frequencies below 10 Khz;

Technical Note: Acoustic power density is obtained by dividing the output acoustic power by the product of the area of the radiating surface and the frequency of operation.

a.1.c.3. Designed to withstand pressure during normal operation at depths exceeding 1,000 m; or

a.1.c.4. Side-lobe suppression exceeding 22 Db;

a.1.d. Acoustic systems, equipment and specially designed components for determining the position of surface vessels or underwater vehicles having any of the following:

Note: 6A001.a.1.d includes:

a. Equipment using coherent "signal processing" between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle;

b. Equipment capable of automatically correcting speed-of-sound propagation errors for calculation of a point.

a.1.d.1. Designed to operate at a range exceeding 1,000 m with a positioning accuracy of less than 10 m rms (root mean square) when measured at a range of 1,000 m; or

a.1.d.2. Designed to withstand pressure at depths exceeding 1,000 m;

a.2. Passive (receiving, whether or not related in normal application to separate active equipment) systems, equipment and specially designed components therefor, as follows:

a.2.a. Hydrophones (transducers) having any of the following characteristics:

a.2.a.1. Incorporating continuous flexible sensors or assemblies of discrete sensor elements with either a diameter or length less than 20 mm and with a separation between elements of less than 20 mm;

a.2.a.2. Having any of the following sensing elements:

a.2.a.2.a. Optical fibers;

a.2.a.2.b. Piezoelectric polymers; or

a.2.a.2.c. Flexible piezoelectric ceramic materials;

a.2.a.3. A hydrophone sensitivity better than −180 Db at any depth with no acceleration compensation;

a.2.a.4. When designed to operate at depths not exceeding 35 m, a hydrophone sensitivity better than −186 Db with acceleration compensation;

a.2.a.5. When designed for normal operation at depths exceeding 35 m, a hydrophone sensitivity better than −192 Db with acceleration compensation;

a.2.a.6. When designed for normal operation at depths exceeding 100 m, a hydrophone sensitivity better than −204 Db; *or*

a.2.a.7. Designed for operation at depths exceeding 1,000 m;

Technical Note: Hydrophone sensitivity is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydrophone sensor, without a pre-amplifier, is placed in a plane wave acoustic field with an rms pressure of 1 μPa. For example, a hydrophone of −160 Db (reference 1 V per μPa) would yield an output voltage of 10^{-8} V in such a field, while one of −180 Db sensitivity would yield only 10^{-9} V output. Thus, −160 Db is better than −180 Db.

a.2.b. Towed acoustic hydrophone arrays having any of the following:

a.2.b.1. Hydrophone group spacing of less than 12.5 m;

a.2.b.2. Hydrophone group spacing of 12.5 m to less than 25 m and designed or able to be modified to operate at depths exceeding 35 m;

Technical Note: ''Able to be modified'' in 6A001.a.2.b.2 means having provisions to allow a change of the wiring or interconnections to alter hydrophone group spacing or operating depth limits. These provisions are: spare wiring exceeding 10% of the number of wires, hydrophone group spacing adjustment blocks or internal depth limiting devices that are adjustable or that control more than one hydrophone group.

a.2.b.3. Hydrophone group spacing of 25 m or more and designed to operate at depths exceeding 100 m;

a.2.b.4. Heading sensors controlled by 6A001.a.2.d;

a.2.b.5. Longitudinally reinforced array hoses;

a.2.b.6. An assembled array of less than 40 mm in diameter;

a.2.b.7. Multiplexed hydrophone group signals designed to operate at depths exceeding 35 m or having an adjustable or removable depth sensing device in order to operate at depths exceeding 35 m; *or*

a.2.b.8. Hydrophone characteristics controlled by 6A001.a.2.a;

a.2.c. Processing equipment, specially designed for towed acoustic hydrophone arrays, having ''user accessible programmability'' and time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes;

a.2.d. Heading sensors having all of the following:

a.2.d.1. An accuracy of better than ±0.5°; *and*

a.2.d.2. Any of the following:

a.2.d.2.a. Designed to be incorporated within the array hosing and to operate at depths exceeding 35 m or having an adjustable or removable depth sensing device in order to operate at depths exceeding 35 m; *or*

a.2.d.2.b. Designed to be mounted external to the array hosing and having a sensor unit capable of operating with 360° roll at depths exceeding 35 m;

a.2.e. Bottom or bay cable systems having any of the following:

a.2.e.1. Incorporating hydrophones controlled by 6A001.a.2.a;

a.2.e.2. Incorporating multiplexed hydrophone group signals designed to operate at depths exceeding 35 m or having an adjustable or removable depth sensing device in order to operate at depths exceeding 35 m; or

a.2.e.3. Processing equipment, specially designed for bottom or bay cable systems, having ''user accessible programmability'' and time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes;

b. Correlation-velocity sonar log equipment designed to measure the horizontal speed of the equipment carrier relative to the sea bed at distances between the carrier and the sea bed exceeding 500 m.

6A002 Optical sensors.

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to optical detectors in 6A002.a.1, a.3, and .e that are specially designed or rated as electomagnetic (including ''lasers'') and ionized particle radiation resistant.	MT Column 1
RS applies to 6A002.a.1, a.2, a.3 and .c.	RS Column 1
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1
AT applies to entire entry	AT Column 1
UN applies to 6A002.a.1, a.2, a.3 and c.	Rwanda

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $3000, *except* N/A for MT and for 6A002.a.1, a.2, a.3, .c, and .e
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Parts and accessories in $ value
Related Controls: See also 6A102, 6A202, and 6A992
Related Definitions: (1) ''Image intensifiers'' defined in 6A002.a.2 and ''focal plane arrays'' defined in 6A002.a.3 specially designed, modified, or configured for military use and not part of civil equipment are subject to the export licensing authority of U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121). (2) ''Space qualified'' ''monospectral imaging sensors'', and ''multispectral imaging sensors'' defined in 6A002.b, and ''space-qualified'' ''focal plane arrays'' defined in 6A002.e, specially designed or modified for items on the U.S. Munitions List are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121)
Items: a. Optical detectors, as follows:

Note: 6A002.a does not control germanium or silicon photodevices.

a.1. ''Space-qualified'' solid-state detectors, as follows:

a.1.a. ''Space-qualified'' solid-state detectors, having all of the following:

a.1.a.1. A peak response in the wavelength range exceeding 10 nm but not exceeding 300 nm; and

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b. ''Space-qualified'' solid-state detectors, having all of the following:

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; and

a.1.b.2. A response ''time constant'' of 95 ns or less;

a.1.c. ''Space-qualified'' solid-state detectors having a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.2. Image intensifier tubes and specially designed components therefor, as follows:

a.2.a. Image intensifier tubes having all of the following:

a.2.a.1. A peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm;

a.2.a.2. A microchannel plate for electron image amplification with a hole pitch (center-to-center spacing) of 15 µm or less; and

a.2.a.3. Photocathodes, as follows:

a.2.a.3.a. S–20, S–25 or multialkali photocathodes with a luminous sensitivity exceeding 240 µA/lm;

a.2.a.3.b. GaAs or GaInAs photocathodes; or

a.2.a.3.c. Other III–V compound semiconductor photocathodes;

Note: 6A002.a.2.a.3.c does not control compound semiconductor photocathodes with a maximum radiant sensitivity of 10 mA/W or less.

a.2.b. Specially designed components, as follows:

a.2.b.1. Microchannel plates having a hole pitch (center-to-center spacing) of 15 µm or less;

a.2.b.2. GaAs or GaInAs photocathodes;

a.2.b.3. Other III–V compound semiconductor photocathodes;

Note: 6A002.a.2.b.3 does not control compound semiconductor photocathodes with a maximum radiant sensitivity of 10 mA/W or less.

a.3. Non-''space-qualified'' ''focal plane arrays'', as follows:

Technical Note: Linear or two-dimensional multi-element detector arrays are referred to as ''focal plane arrays''.

Notes: 1. 6A002.a.3 includes photoconductive arrays and photovoltaic arrays.

2. 6A002.a.3 does not control silicon ''focal plane arrays'', multi-element (not to exceed 16 elements) encapsulated photoconductive cells or pyroelectric detectors using any of the following:

a. Lead sulphide;

b. Triglycine sulphate and variants;

c. Lead-lanthanum-zirconium titanate and variants;

d. Lithium tantalate;

e. Polyvinylidene fluoride and variants;

f. Strontium barium niobate and variants; *or*

g. Lead selenide.

a.3.a. Non-''space-qualified'' ''focal plane arrays'', having all of the following:

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm but not exceeding 1,050 nm; and

a.3.a.2. A response ''time constant'' of less than 0.5 ns;

a.3.b. Non-''space-qualified'' ''focal plane arrays'', having all of the following:

a.3.b.1. Individual elements with a peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,200 nm; and

a.3.b.2. A response ''time constant'' of 95 ns or less;

a.3.c. Non-''space-qualified'' ''focal plane arrays'', having individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm.

b. ''Monospectral imaging sensors'' and ''multispectral imaging sensors'' designed for remote sensing applications, having any of the following:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 μr (microradians); or

b.2. Being specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm and having all the following;

b.2.a. Providing output imaging data in digital format; *and*

b.2.b. Being any of the following:

b.2.b.1. ''Space-qualified''; or

b.2.b.2. Designed for airborne operation, using other than silicon detectors, and having an IFOV of less than 2.5 mr (milliradians).

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating any of the following:

c.1. Image intensifier tubes having the characteristics listed in 6A002.a.2.a; or

c.2. ''Focal plane arrays'' having the characteristics listed in 6A002.a.3.

Technical Note: ''Direct view'' refers to imaging equipment, operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically or by any other means.

Note: 6A002.c does not control the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use.

d. Special support components for optical sensors, as follows:

d.1. ''Space-qualified'' cryocoolers;

d.2. Non-''space-qualified'' cryocoolers, having a cooling source temperature below 218 K (−55° C), as follows:

d.2.a. Closed cycle type with a specified Mean-Time-To-Failure (MTTF), or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers having bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive.

e. ''Space qualified'' ''focal plane arrays'' having more than 2,048 elements per array and having a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm.

6A003 Cameras.

License Requirements

Reason for Control: NS, NP, RS, AT, UN

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4.	NP Column 1
RS applies to items controlled in 6A003.b.3 and b.4.	RS Column 1
AT applies to entire entry	AT Column 1
UN applies to items controlled in 6A003.b.3 and b.4.	Rwanda

License Exceptions

LVS: $1500, except N/A for 6A003.a.2 through a.5, b.1, b.3 and b.4

GBS: Yes for 6A003.a.1

CIV: Yes for 6A003.a.1

List of Items Controlled

Unit: Number

Related Controls: See also 6A203. See 8A002.d and .e for cameras specially designed or modified for underwater use.

Related Definitions: N/A

Items: a. Instrumentation cameras, as follows:

a.1. High-speed cinema recording cameras using any film format from 8 mm to 16 mm inclusive, in which the film is continuously advanced throughout the recording period, and that are capable of recording at framing rates exceeding 13,150 frames/s;

Note: 6A003.a.1 does not control cinema recording cameras for normal civil purposes.

a.2. Mechanical high speed cameras, in which the film does not move, capable of recording at rates exceeding 1,000,000 frames/s for the full framing height of 35 mm film, or at proportionately higher rates for lesser frame heights, or at proportionately lower rates for greater frame heights;

a.3. Mechanical or electronic streak cameras having writing speeds exceeding 10 mm/μs;

a.4. Electronic framing cameras having a speed exceeding 1,000,000 frames/s;

a.5. Electronic cameras, having all of the following:

a.5.a. An electronic shutter speed (gating capability) of less than 1 μs per full frame; and

a.5.b. A read out time allowing a framing rate of more than 125 full frames per second.

b. Imaging cameras, as follows:

Note: 6A003.b does not control television or video cameras specially designed for television broadcasting.

b.1. Video cameras incorporating solid state sensors, having any of the following:

b.1.a. More than 4×10^6 ''active pixels'' per solid state array for monochrome (black and white) cameras;

b.1.b. More than 4×10^6 ''active pixels'' per solid state array for color cameras incorporating three solid state arrays; or

b.1.c. More than 12×10^6 ''active pixels'' for solid state array color cameras incorporating one solid state array;

b.2. Scanning cameras and scanning camera systems, having all of the following:

b.2.a. Linear detector arrays with more than 8,192 elements per array; and

b.2.b. Mechanical scanning in one direction;

b.3. Imaging cameras incorporating image intensifiers having the characteristics listed in 6A002.a.2.a;

b.4. Imaging cameras incorporating ''focal plane arrays'' having the characteristics listed in 6A002.a.3.

6A004 Optics.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $3000

GBS: Yes for 6A004.a.1, a.2, a.4, b, d.2, and d.4

CIV: Yes for 6A004.a.1, a.2, a.4, b, d.2, and d.4

List of Items Controlled

Unit: Equipment in number; cable in meters/feet; components in $ value

Related Controls: See also 6A994

Related Definitions: N/A

Items: a. Optical mirrors (reflectors), as follows:

a.1. ''Deformable mirrors'' having either continuous or multi-element surfaces, and specially designed components therefor, capable of dynamically repositioning portions of the surface of the mirror at rates exceeding 100 Hz;

a.2. Lightweight monolithic mirrors having an average ''equivalent density'' of less than 30 kg/m^2 and a total mass exceeding 10 kg;

a.3. Lightweight ''composite'' or foam mirror structures having an average ''equivalent density'' of less than 30 kg/m^2 and a total mass exceeding 2 kg;

a.4. Beam steering mirrors more than 100 mm in diameter or length of major axis, that maintain a flatness of lambda/2 or better (lambda is equal to 633 nm) having a control bandwidth exceeding 100 Hz.

b. Optical components made from zinc selenide (ZnSe) or zinc sulphide (ZnS) with transmission in the wavelength range exceeding 3,000 nm but not exceeding 25,000 nm and having any of the following:

b.1. Exceeding 100 cm^3 in volume; or

b.2. Exceeding 80 mm in diameter or length of major axis and 20 mm in thickness (depth).

c. ''Space-qualified'' components for optical systems, as follows:

c.1. Lightweighted to less than 20% ''equivalent density'' compared with a solid blank of the same aperture and thickness;

c.2. Substrates, substrates having surface coatings (single-layer or multi-layer, metallic or dielectric, conducting, semiconducting or insulating) or having protective films;

c.3. Segments or assemblies of mirrors designed to be assembled in space into an optical system with a collecting aperture

equivalent to or larger than a single optic 1 m in diameter;

c.4. Manufactured from ''composite'' materials having a coefficient of linear thermal expansion equal to or less than 5×10^{-6} in any coordinate direction.

d. Optical control equipment, as follows:

d.1. Specially designed to maintain the surface figure or orientation of the ''space-qualified'' components controlled by 6A004.c.1 or 6A004.c.3;

d.2. Having steering, tracking, stabilization or resonator alignment bandwidths equal to or more than 100 Hz and an accuracy of 10 μr (microradians) or less;

d.3. Gimbals having all of the following:

d.3.a. A maximum slew exceeding 5°;

d.3.b. A bandwidth of 100 Hz or more;

d.3.c. Angular pointing errors of 200 μr (microradians) or less; *and*

d.3.d. Having any of the following:

d.3.d.1. Exceeding 0.15 m but not exceeding 1 m in diameter or major axis length and capable of angular accelerations exceeding 2 r (radians)/s^2; or

d.3.d.2. Exceeding 1 m in diameter or major axis length and capable of angular accelerations exceeding 0.5 r (radians)/s^2;

d.4. Specially designed to maintain the alignment of phased array or phased segment mirror systems consisting of mirrors with a segment diameter or major axis length of 1 m or more.

6A005 ''Lasers'', components and optical equipment, as follows (see List of Items Controlled).

License Requirements.

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
NP applies to 6A005.a.1.c, a.2.a (with an output power > 40W), a.4.c, a.6, (argon ion lasers only), c.1.b (with an output power > 30W), c.2.c.2.a (with an output power > 40W), c.2.c.2.b (with an output power > 40W), c.2.d.2.b (with an output power > 40W), and d.2.c.	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A for NP items
$3000 for all other items

GBS: Yes, for 6A005.d (except d.2.c), CO_2 or CO/CO_2 ''lasers'' having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 Kw; CO ''lasers'' having a CW maximum rated single or multimode output power not exceeding 10 Kw; CO_2 ''lasers'' controlled by 6A005.a.4 that operate in CW multiple-transverse mode; and having a CW output power not exceeding 15 Kw; Neodymium-doped (other than glass), pulse-excited, ''Q-switched lasers'' controlled by 6A005.c.2.b.2.b having a pulse duration equal to or more than 1 ns; and a multiple-transverse mode output with a ''peak power'' not exceeding 400 MW; Neodymium-doped (other than glass) ''lasers'' controlled by 6A005.c.2.b.3.b or 6A005.c.2.b.4.b that have an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm; and an average or CW output power not exceeding 2 Kw; and operate in a pulse-excited, non-''Q-switched'' multiple-transverse mode; or in a continuously excited, multiple-transverse mode; and 6A005.g.1.

CIV: Yes, for 6A005..d (except d.2.c), CO_2 or CO/CO_2 ''lasers'' having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 Kw; CO ''lasers'' having a CW maximum rated single or multimode output power not exceeding 10 Kw; CO_2 ''lasers'' controlled by 6A005.a.4 that operate in CW multiple-transverse mode; and having a CW output power not exceeding 15 Kw; Neodymium-doped (other than glass), pulse-excited, ''Q-switched lasers'' controlled by 6A005.c.2.b.2.b having a pulse duration equal to or more than 1 ns; and a multiple-transverse mode output with a ''peak power'' not exceeding 400 MW; Neodymium-doped (other than glass) ''lasers'' controlled by 6A005.c.2.b.3.b or 6A005.c.2.b.4.b that have an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm; and an average or CW output power not exceeding 2 Kw; and operate in a pulse-excited, non-''Q-switched'' multiple-transverse mode; or in a continuously excited, multiple-transverse mode; and 6A005.g.1.

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value

Related Controls: See also 6A205, 6A995, 0B001.g.5 and 0B001.b.6. Shared aperture optical elements, capable of operating in ''super-high power laser'' applications are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)

Related Definitions: (1) Pulsed ''lasers'' include those that run in a continuous wave (CW) mode with pulses superimposed. (2) Pulse-excited ''lasers'' include those that run in a continuously excited mode with pulse excitation superimposed. (3) The control status of Raman ''lasers'' is determined by the parameters of the pumping source ''lasers''. The pumping source ''lasers'' can be any of the ''lasers'' described as follows:

Items: a. Gas ''lasers'', as follows:

a.1. Excimer ''lasers'', having any of the following:

a.1.a. An output wavelength not exceeding 150 nm and having any of the following:

a.1.a.1. An output energy exceeding 50 mJ per pulse; *or*

a.1.a.2. An average or CW output power exceeding 1 W;

a.1.b. An output wavelength exceeding 150 nm but not exceeding 190 nm and having any of the following:

a.1.b.1. An output energy exceeding 1.5 J per pulse; *or*

a.1.b.2. An average or CW output power exceeding 120 W;

a.1.c. An output wavelength exceeding 190 nm but not exceeding 360 nm and having any of the following:

a.1.c.1. An output energy exceeding 10 J per pulse; or

a.1.c.2. An average or CW output power exceeding 500 W; or

a.1.d. An output wavelength exceeding 360 nm and having any of the following:

a.1.d.1. An output energy exceeding 1.5 J per pulse; or

a.1.d.2. An average or CW output power exceeding 30 W;

a.2. Metal vapor ''lasers'', as follows:

a.2.a. Copper (Cu) ''lasers'' having an average or CW output power exceeding 20 W;

a.2.b. Gold (Au) ''lasers'' having an average or CW output power exceeding 5 W;

a.2.c. Sodium (Na) ''lasers'' having an output power exceeding 5 W;

a.2.d. Barium (Ba) ''lasers'' having an average or CW output power exceeding 2 W;

a.3. Carbon monoxide (CO) ''lasers'' having any of the following:

a.3.a. An output energy exceeding 2 J per pulse and a pulsed ''peak power'' exceeding 5 Kw; or

a.3.b. An average or CW output power exceeding 5 Kw;

a.4. Carbon dioxide (CO_2) ''lasers'' having any of the following:

a.4.a. A CW output power exceeding 15 Kw;

a.4.b. A pulsed output having a ''pulse duration'' exceeding 10 μs and having any of the following:

a.4.b.1. An average output power exceeding 10 Kw; *or*

a.4.b.2. A pulsed ''peak power'' exceeding 100 Kw; *or*

a.4.c. A pulsed output having a ''pulse duration'' equal to or less than 10 μs; and having any of the following:

a.4.c.1. A pulse energy exceeding 5 J per pulse; *or*

a.4.c.2. An average output power exceeding 2.5 Kw;

a.5. ''Chemical lasers'', as follows:

a.5.a. Hydrogen Fluoride (HF) ''lasers'';

a.5.b. Deuterium Fluoride (DF) ''lasers'';

a.5.c. ''Transfer lasers'', as follows:

a.5.c.1. Oxygen Iodine (O_2–I) ''lasers'';

a.5.c.2. Deuterium Fluoride-Carbon dioxide (DF–CO_2) ''lasers'';

a.6. Gas discharge and ion ''lasers'' (i.e., krypton ion or argon ion ''lasers'') having any of the following:

a.6.a. An output energy exceeding 1.5 J per pulse and a pulsed ''peak power'' exceeding 50 W; or

a.6.b. An average or CW output power exceeding 50 W;

a.7. Other gas ''lasers'', having any of the following:

Note: 6A005.a.7 does not control nitrogen ''lasers''.

a.7.a. An output wavelength not exceeding 150 nm and having any of the following:

a.7.a.1. An output energy exceeding 50 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

a.7.a.2. An average or CW output power exceeding 1 W;

a.7.b. An output wavelength exceeding 150 nm but not exceeding 800 nm and having any of the following:

a.7.b.1. An output energy exceeding 1.5 J per pulse and a pulsed ''peak power'' exceeding 30 W; or

a.7.b.2. An average or CW output power exceeding 30 W;

a.7.c. An output wavelength exceeding 800 nm but not exceeding 1,400 nm and having any of the following:

a.7.c.1. An output energy exceeding 0.25 J per pulse and a pulsed ''peak power'' exceeding 10 W; or

a.7.c.2. An average or CW output power exceeding 10 W; or

a.7.d. An output wavelength exceeding 1,400 nm and an average or CW output power exceeding 1 W.

b. Individual, multiple-transverse mode semiconductor ''lasers'' and arrays of individual semiconductor ''lasers'', having any of the following:

b.1. An output energy exceeding 500 μJ per pulse and a pulsed ''peak power'' exceeding 10 W; or

b.2. An average or CW output power exceeding 10 W.

Technical Note: Semiconductor ''lasers'' are commonly called ''laser'' diodes.

Note 1: 6A005.b includes semiconductor ''lasers'' having optical output connectors (e.g. fiber optic pigtails).

Note 2: The control status of semiconductor ''lasers'' specially designed for other equipment is determined by the control status of the other equipment.

c. Solid state ''lasers'', as follows:

c.1. ''Tunable'' ''lasers'' having any of the following:

Note: 6A005.c.1 includes titanium—sapphire (Ti: Al_2O_3), thulium—YAG (Tm: YAG), thulium—YSGG (Tm: YSGG), alexandrite (Cr: $BeAl_2O_4$) and color center ''lasers''.

c.1.a. An output wavelength less than 600 nm and having any of the following:

c.1.a.1. An output energy exceeding 50 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

c.1.a.2. An average or CW output power exceeding 1 W;

c.1.b. An output wavelength of 600 nm or more but not exceeding 1,400 nm and having any of the following:

c.1.b.1. An output energy exceeding 1 J per pulse and a pulsed ''peak power'' exceeding 20 W; or

c.1.b.2. An average or CW output power exceeding 20 W; or

c.1.c. An output wavelength exceeding 1,400 nm and having any of the following:

c.1.c.1. An output energy exceeding 50 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

c.1.c.2. An average or CW output power exceeding 1 W;

c.2. Non-''tunable'' ''lasers'', as follows:

Note: 6A005.c.2 includes atomic transition solid state ''lasers''.

c.2.a. Neodymium glass ''lasers'', as follows:

c.2.a.1. ''Q-switched lasers'' having any of the following:

c.2.a.1.a. An output energy exceeding 20 J but not exceeding 50 J per pulse and an average output power exceeding 10 W; or

c.2.a.1.b. An output energy exceeding 50 J per pulse;

c.2.a.2. Non-''Q-switched lasers'' having any of the following:

c.2.a.2.a. An output energy exceeding 50 J but not exceeding 100 J per pulse and an average output power exceeding 20 W; or

c.2.a.2.b. An output energy exceeding 100 J per pulse;

c.2.b. Neodymium-doped (other than glass) ''lasers'', having an output wavelength exceeding 1,000 nm but not exceeding 1,100 nm, as follows:

N.B.: For neodymium-doped (other than glass) ''lasers'' having an output wavelength not exceeding 1,000 nm or exceeding 1,100 nm, see 6A005.c.2.d.

c.2.b.1. Pulse-excited, mode-locked, ''Q-switched lasers'' having a ''pulse duration'' of less than 1 ns and having any of the following:

c.2.b.1.a. A ''peak power'' exceeding 5 GW;

c.2.b.1.b. An average output power exceeding 10 W; or

c.2.b.1.c. A pulsed energy exceeding 0.1 J;

c.2.b.2. Pulse-excited, ''Q-switched lasers'' having a pulse duration equal to or more than 1 ns, and having any of the following:

c.2.b.2.a. A single-transverse mode output having:

c.2.b.2.a.1. A ''peak power'' exceeding 100 MW;

c.2.b.2.a.2. An average output power exceeding 20 W; or

c.2.b.2.a.3. A pulsed energy exceeding 2 J; or

c.2.b.2.b. A multiple-transverse mode output having:

c.2.b.2.b.1. A ''peak power'' exceeding 400 MW;

c.2.b.2.b.2. An average output power exceeding 2 kW; or

c.2.b.2.b.3. A pulsed energy exceeding 2 J;

c.2.b.3. Pulse-excited, non-''Q-switched lasers'', having:

c.2.b.3.a. A single-transverse mode output having:

c.2.b.3.a.1. A ''peak power'' exceeding 500 kW; or

c.2.b.3.a.2. An average output power exceeding 150 W; or

c.2.b.3.b. A multiple-transverse mode output having:

c.2.b.3.b.1. A ''peak power'' exceeding 1 MW; or

c.2.b.3.b.2. An average power exceeding 2 kW;

c.2.b.4. Continuously excited ''lasers'' having:

c.2.b.4.a. A single-transverse mode output having:

c.2.b.4.a.1. A ''peak power'' exceeding 500 kW; or

c.2.b.4.a.2. An average or CW output power exceeding 150 W; or

c.2.b.4.b. A multiple-transverse mode output having:

c.2.b.4.b.1. A ''peak power'' exceeding 1 MW; or

c.2.b.4.b.2. An average or CW output power exceeding 2 kW;

c.2.c. Other non-''tunable'' ''lasers'', having any of the following:

c.2.c.1. A wavelength less than 150 nm and having any of the following:

c.2.c.1.a. An output energy exceeding 50 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

c.2.c.1.b. An average or CW output power exceeding 1 W;

c.2.c.2. A wavelength of 150 nm or more but not exceeding 800 nm and having any of the following:

c.2.c.2.a. An output energy exceeding 1.5 J per pulse and a pulsed ''peak power'' exceeding 30 W; or

c.2.c.2.b. An average or CW output power exceeding 30 W;

c.2.c.3. A wavelength exceeding 800 nm but not exceeding 1,400 nm, as follows:

c.2.c.3.a. ''Q-switched lasers'' having:

c.2.c.3.a.1. An output energy exceeding 0.5 J per pulse and a pulsed ''peak power'' exceeding 50 W; or

c.2.c.3.a.2. An average output power exceeding:

c.2.c.3.a.2.a. 10 W for single-mode ''lasers'';

c.2.c.3.a.2.b. 30 W for multimode ''lasers'';

c.2.c.3.b. Non-''Q-switched lasers'' having:

c.2.c.3.b.1. An output energy exceeding 2 J per pulse and a pulsed ''peak power'' exceeding 50 W; or

c.2.c.3.b.2. An average or CW output power exceeding 50 W; or

c.2.c.4. A wavelength exceeding 1,400 nm and having any of the following:

c.2.c.4.a. An output energy exceeding 100 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

c.2.c.4.b. An average or CW output power exceeding 1 W;

d. Dye and other liquid ''lasers'', having any of the following:

d.1. A wavelength less than 150 nm and:

d.1.a. An output energy exceeding 50 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

d.1.b. An average or CW output power exceeding 1 W;

d.2. A wavelength of 150 nm or more but not exceeding 800 nm and having any of the following:

d.2.a. An output energy exceeding 1.5 J per pulse and a pulsed ''peak power'' exceeding 20 W;

d.2.b. An average or CW output power exceeding 20 W; or

d.2.c. A pulsed single longitudinal mode oscillator having an average output power exceeding 1 W and a repetition rate exceeding 1 Khz if the ''pulse duration'' is less than 100 ns;

d.3. A wavelength exceeding 800 nm but not exceeding 1,400 nm and having any of the following:

d.3.a. An output energy exceeding 0.5 J per pulse and a pulsed ''peak power'' exceeding 10 W; or

d.3.b. An average or CW output power exceeding 10 W; or

d.4. A wavelength exceeding 1,400 nm and having any of the following:

d.4.a. An output energy exceeding 100 mJ per pulse and a pulsed ''peak power'' exceeding 1 W; or

d.4.b. An average or CW output power exceeding 1 W;

e. Components, as follows:

e.1. Mirrors cooled either by active cooling or by heat pipe cooling;

Technical Note: Active cooling is a cooling technique for optical components using flowing fluids within the subsurface (nominally less than 1 mm below the optical surface) of the optical component to remove heat from the optic.

e.2. Optical mirrors or transmissive or partially transmissive optical or electro-optical components specially designed for use with controlled ''lasers'';

f. Optical equipment, as follows:

(For shared aperture optical elements, capable of operating in ''Super-High Power Laser'' (''SHPL'') applications, see the U.S. Munitions List.)

f.1. Dynamic wavefront (phase) measuring equipment capable of mapping at least 50 positions on a beam wavefront having any of the following:

f.1.a. Frame rates equal to or more than 100 Hz and phase discrimination of at least 5% of the beam's wavelength; or

f.1.b. Frame rates equal to or more than 1,000 Hz and phase discrimination of at least 20% of the beam's wavelength;

f.2. ''Laser'' diagnostic equipment capable of measuring ''SHPL'' system angular beam steering errors of equal to or less than 10 µrad;

f.3. Optical equipment and components specially designed for a phased-array ''SHPL'' system for coherent beam combination to an accuracy of lambda/10 at the designed wavelength, or 0.1 µm, whichever is the smaller;

f.4. Projection telescopes specially designed for use with ''SHPL'' systems.

6A006 ''Magnetometers'', ''magnetic gradiometers'', ''intrinsic magnetic gradiometers'' and compensation systems, and specially designed components therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 6A996. This entry does not control instruments specially designed for biomagnetic measurements for medical diagnostics.
Related Definitions: N/A
Items: a. ''Magnetometers'' using ''superconductive'', optically pumped or nuclear precession (proton/Overhauser) ''technology'' having a ''noise level'' (sensitivity) lower (better) than 0.05 nT rms per square root Hz;

b. Induction coil ''magnetometers'' having a ''noise level'' (sensitivity) lower (better) than any of the following:

b.1. 0.05 nT rms/square root Hz at frequencies of less than 1 Hz;

b.2. 1×10^{-3} nT rms/square root Hz at frequencies of 1 Hz or more but not exceeding 10 Hz; or

b.3. 1×10^{-4} nT rms/square root Hz at frequencies exceeding 10 Hz;

c. Fiber optic ''magnetometers'' having a ''noise level'' (sensitivity) lower (better) than 1 nT rms per square root Hz;

d. ''Magnetic gradiometers'' using multiple ''magnetometers'' controlled by 6A006.a, 6A006.b or 6A006.c;

e. Fiber optic ''intrinsic magnetic gradiometers'' having a magnetic gradient field ''noise level'' (sensitivity) lower (better) than 0.3 nT/m rms per square root Hz;

f. ''Intrinsic magnetic gradiometers'', using ''technology'' other than fiber-optic ''technology'', having a magnetic gradient field ''noise level'' (sensitivity) lower (better) than 0.015 nT/m rms per square root Hz;

g. Magnetic compensation systems for magnetic sensors designed for operation on mobile platforms;

h. ''Superconductive'' electromagnetic sensors, components manufactured from ''superconductive'' materials:

h.1. Designed for operation at temperatures below the ''critical temperature'' of at least one of their ''superconductive'' constituents (including Josephson effect devices or ''superconductive'' quantum interference devices (SQUIDS));

h.2. Designed for sensing electromagnetic field variations at frequencies of 1 kHz or less; and

h.3. Having any of the following characteristics:

h.3.a. Incorporating thin-film SQUIDS with a minimum feature size of less than 2 µm and with associated input and output coupling circuits;

h.3.b. Designed to operate with a magnetic field slew rate exceeding 1×10^{6} magnetic flux quanta per second;

h.3.c. Designed to function without magnetic shielding in the earth's ambient magnetic field; or

h.3.d. Having a temperature coefficient less (smaller) than 0.1 magnetic flux quantum/K.

6A007 Gravity meters (gravimeters) and gravity gradiometers, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to 6A007.b and .c when the accuracies in 6A007.b.1 and b.2 are met or exceeded.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000; N/A for MT
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 6A107 and 6A997
Related Definitions: N/A
Items: a. Gravity meters for ground use having a static accuracy of less (better) than 10 µgal;

Note: 6A007.a does not control ground gravity meters of the quartz element (Worden) type.

b. Gravity meters for mobile platforms for ground, marine, submersible, space or airborne use, having all of the following:

b.1. A static accuracy of less (better) than 0.7 mgal; and

b.2. An in-service (operational) accuracy of less (better) than 0.7 mgal having a time-to-steady-state registration of less than 2 minutes under any combination of attendant corrective compensations and motional influences;

c. Gravity gradiometers.

6A008 Radar systems, equipment and assemblies having any of the characteristics (see List of Items Controlled), and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to items that are designed for airborne applications and that are usable in systems controlled for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000; N/A for MT and 6A008.l.3
GBS: Yes, for 6A008.b, .c, and l.1 only
CIV: Yes, for 6A008.b, .c, and l.1 only

List of Items Controlled

Unit: $ value
Related Controls: See also 6A108 and 6A998. This entry does not control: (1) Secondary surveillance radar (SSR); (2) Car radar designed for collision prevention; (3) Displays or monitors used for Air Traffic Control (ATC) having no more than 12 resolvable elements per mm; (4) Meteorological (weather) radar.
Related Definitions: N/A
Items: a. Operating at frequencies from 40 GHz to 230 GHz and having an average output power exceeding 100 mW;

b. Having a tunable bandwidth exceeding ± 6.25% of the center operating frequency;

Technical Note: The center operating frequency equals one half of the sum of the highest plus the lowest specified operating frequencies.

c. Capable of operating simultaneously on more than two carrier frequencies;

d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) radar mode, or sidelooking airborne (SLAR) radar mode;

e. Incorporating ''electronically steerable phased array antennae'';

f. Capable of heightfinding non-cooperative targets;

Note: 6A008.f does not control precision approach radar (PAR) equipment conforming to ICAO standards.

g. Specially designed for airborne (balloon or airframe mounted) operation and having Doppler ''signal processing'' for the detection of moving targets;

h. Employing processing of radar signals using any of the following:

h.1. ''Radar spread spectrum'' techniques; or

h.2. ''Radar frequency agility'' techniques;

i. Providing ground-based operation with a maximum ''instrumented range'' exceeding 185 km;

Note: 6A008.i does not control:

a. Fishing ground surveillance radar;

b. Ground radar equipment specially designed for enroute air traffic control, provided that all the following conditions are met:

1. It has a maximum ''instrumented range'' of 500 km or less;

2. It is configured so that radar target data can be transmitted only one way from the radar site to one or more civil ATC centers;

3. It contains no provisions for remote control of the radar scan rate from the enroute ATC center; and

4. It is to be permanently installed;

c. Weather balloon tracking radars.

j. Being ''laser'' radar or Light Detection and Ranging (LIDAR) equipment, having any of the following:

j.1. ''Space-qualified''; or

j.2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 μr (microradians);

Note: 6A008.j does not control LIDAR equipment specially designed for surveying or for meteorological observation.

k. Having ''signal processing'' sub-systems using ''pulse compression'', with any of the following:

k.1. A ''pulse compression'' ratio exceeding 150; or

k.2. A pulse width of less than 200 ns; or

l. Having data processing sub-systems with any of the following:

l.1. ''Automatic target tracking'' providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage;

Note: 6A008.l.1 does not control conflict alert capability in ATC systems, or marine or harbor radar.

l.2. Calculation of target velocity from primary radar having non-periodic (variable) scanning rates;

l.3. Processing for automatic pattern recognition (feature extraction) and comparison with target characteristic data bases (waveforms or imagery) to identify or classify targets; or

l.4. Superposition and correlation, or fusion, of target data from two or more ''geographically dispersed'' and ''interconnected radar sensors'' to enhance and discriminate targets.

Note: 6A008.l.4 does not control systems, equipment and assemblies used for marine traffic control.

6A018 Magnetic, pressure, and acoustic underwater detection devices specially designed for military purposes and controls and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number;components in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A102 Radiation hardened detectors, other than those controlled by 6A002, for use in protecting against nuclear effects (e.g. electromagnetic pulse (EMP), X-rays, combined blast and thermal effects) and usable for ''missiles'', designed or rated to withstand radiation levels that meet or exceed a total irradiation dose of 5 x 10^5 rads (Si).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Components in number
Related Controls: N/A
Related Definitions: In this entry, a detector is defined as a mechanical, electrical, optical or chemical device that automatically identifies and records, or registers a stimulus such as an environmental change in pressure or temperature, an electrical or electromagnetic signal or radiation from a radioactive material.
Items: The list of items controlled is contained in the ECCN heading.

6A107 Gravity meters (gravimeters), gravity gradiometers, and specially designed components therefore, other than those controlled by 6A007.b and .c, designed or modified for airborne or marine use, having a static or operational accuracy of 7 $\times 10^{-6}$ m/sec² (0.7 milligal) or better, and a time to steady-state registration of two minutes or less.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A108 Radar systems and tracking systems, other than those controlled by 6A008, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) This entry does not control airborne civil weather radar conforming to international standards for civil weather radars provided that they do not incorporate any of the following: (a) Phased array antennas; (b) Frequency agility; (c) Spread spectrum; or (d) Signal processing specially designed for the tracking of vehicles. (2) Items in 6A108.a that are specially designed or modified for ''missiles'' or for items on the U.S. Munitions List are subject to the export licensing authority of the U.S. Department of State, Defense Trade Controls (see 22 CFR part 121).
Related Definitions: Laser radar systems are defined as those that embody specialized transmission, scanning, receiving and signal processing techniques for utilization of lasers for echo ranging, direction finding and discrimination of targets by location, radial speed and body reflection characteristics.
Items: a. Radar and laser radar systems designed or modified for use in ''missiles'';

b. Precision tracking systems, usable for ''missiles'', as follows:

b.1. Tracking systems that use a code translator in conjunction with either surface or airborne references or navigation satellite systems to provide real-time measurements of in-flight position and velocity;

b.2. Range instrumentation radars including associated optical/infrared trackers with all of the following capabilities:

b.2.a. Angular resolution better than 3 milliradians (0.5 mils);

b.2.b. Range of 30 km or greater with a range resolution better than 10 m rms;

b.2.c. Velocity resolution better than 3 m/s.

6A202 Photomultiplier tubes with a photocathode area of greater than 20 cm^2 having an anode pulse rise time of less than 1 ns.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A203 Cameras and components, other than those controlled by 6A003, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment and components in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Mechanical rotating mirror cameras, as follows, and specially designed components therefor:

a.1. Framing cameras with recording rates greater than 225,000 frames per second; or

a.2. Streak cameras with writing speeds greater than 0.5 mm per microsecond;

Note: Components of such cameras include their synchronizing electronic units and rotor assemblies consisting of turbines, mirrors and bearings.

b. Electronic streak and framing cameras and tubes, as follows:

b.1. Electronic streak cameras capable of 50 ns or less time resolution and streak tubes therefor;

b.2. Electronic (or electronically shuttered) framing cameras capable of 50 ns or less frame exposure time;

b.3. Framing tubes and solid-state imaging devices for use with cameras controlled by 6A203.b.2, as follows:

b.3.a. Proximity focused image intensifier tubes having the photocathode deposited on a transparent conductive coating to decrease photocathode sheet resistance;

b.3.b. Gate silicon intensifier target (SIT) videcon tubes, where a fast system allows gating the photoelectrons from the photocathode before they impinge on the SIT plate;

b.3.c. Kerr or pocket cell electro-optical shuttering; or

b.3.d. Other framing tubes and solid-state imaging devices having a fast-image gating time of less than 50 ns specially designed for cameras controlled by 6A203.b.2;

c. Radiation-hardened TV cameras, or lenses therefor, specially designed or rated as radiation hardened to withstand greater than 50×10^3 grays (Silicon) (5×10^6 rad (Silicon)) without operational degradation.

6A205 ''Lasers'', other than those controlled 6A005, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 0B001.g.5 and 0B001.h.6
Related Definitions: N/A
Items: a. Argon ion ''lasers'' with greater than 40 W average output power operating at wavelengths between 400 nm and 515 nm;

b. Tunable pulsed single-mode dye oscillators capable of an average power output of greater than 1 W, a repetition rate greater than 1 kHz, a pulse less than 100 ns, and a wavelength between 300 nm and 800 nm;

c. Tunable pulsed dye laser amplifiers and oscillators, with an average power output of greater than 30 W, a repetition rate greater than 1 kHz, a pulse width less than 100 ns, and a wavelength between 300 nm and 800 nm, except single mode oscillators;

d. Pulsed carbon dioxide ''lasers'' with a repetition rate greater than 250 Hz, an average power output of greater than 500 W, and a pulse of less than 200 ns operating at wavelengths between 9,000 nm and 11,000 nm;

e. Para-hydrogen Raman shifters designed to operate at 16 micrometer output wavelength and at a repetition rate greater than 250 Hz;

f. Pulse-excited, Q-switched Neodymium-doped (other than glass) ''lasers'', having all of the following:

f.1. An output wavelength exceeding 1,000 nm but not exceeding 1,100 nm;

f.2. A pulse duration equal to or more than 1 ns; *and*

f.3. A multiple-transverse mode output having an average power exceeding 50 W.

6A225 Velocity interferometers for measuring velocities in excess of 1 km/s during time intervals of less than 10 microsecond (VISARs, Doppler laser interferometers (DLIs), etc.).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A226 Pressure sensors, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Manganin gauges for pressures greater than 100 kilobars; *or*

b. Quartz pressure transducers for pressures greater than 100 kilobars.

6A991 Marine or terrestrial acoustic equipment, n.e.s., capable of detecting or locating underwater objects or features or positioning surface vessels or underwater vehicles; and specially designed components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 2

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A992 Optical Sensors, not controlled by 6A002.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A

GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Image intensifier tubes and specially designed components therefor, as follows:
a.1. Image intensifier tubes having all the following:
a.1.a. A peak response in wavelength range exceeding 400 nm, but not exceeding 1,050 nm;
a.1.b. A microchannel plate for electron image amplification with a hole pitch (center-to-center spacing) of less than 25 micrometers; and
a.1.c. Having any of the following:
a.1.c.1. An S–20, S–25 or multialkali photocathode; or
a.1.c.2. A GaAs or GaInAs photocathode;
a.2. Specially designed microchannel plates having both of the following characteristics:
a.2.a. 15,000 or more hollow tubes per plate; and
a.2.b. Hole pitch (center-to-center spacing) of less than 25 micrometers.

6A994 Optics, not controlled by 6A004.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Optical filters:
a.1. For wavelengths longer than 250 nm, comprised of multi-layer optical coatings and having either of the following:
a.1.a. Bandwidths equal to or less than 1 nm Full Width Half Intensity (FWHI) and peak transmission of 90% or more; or
a.1.b. Bandwidths equal to or less than 0.1 nm FWHI and peak transmission of 50% or more;

Note: 6A994 does not control optical filters with fixed air gaps or Lyot-type filters.

a.2. For wavelengths longer than 250 nm, and having all of the following:
a.2.a. Tunable over a spectral range of 500 nm or more;
a.2.b. Instantaneous optical bandpass of 1.25 nm or less;
a.2.c. Wavelength resettable within 0.1 ms to an accuracy of 1 nm or better within the tunable spectral range; and
a.2.d. A single peak transmission of 91% or more;
a.3. Optical opacity switches (filters) with a field of view of 30° or wider and a response time equal to or less than 1 ns;
b. ''Fluoride fiber'' cable, or optical fibers therefor, having an attenuation of less than 4 dB/km in the wavelength range exceeding 1,000 nm but not exceeding 3,000 nm.

6A995 ''Lasers'', not controlled by 6A005 or 6A205.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Carbon dioxide (CO_2) ''lasers'' having any of the following:
a.1. A CW output power exceeding 10 kW;
a.2. A pulsed output with a ''pulse duration'' exceeding 10 microseconds; *and*
a.2.a. An average output power exceeding 10 kW; or
a.2.b. A pulsed ''peak power'' exceeding 100 kW; or
a.3. A pulsed output with a ''pulse duration'' equal to or less than 10 microseconds; and
a.3.a. A pulse energy exceeding 5 J per pulse and ''peak power'' exceeding 2.5 kW; or
a.3.b. An average output power exceeding 2.5 kW;
b. Semiconductor lasers, as follows:
b.1. Individual, single-transverse mode semiconductor ''lasers'' having:
b.1.a. An average output power exceeding 100 mW; or
b.1.b. A wavelength exceeding 1,050 nm;
b.2. Individual, multiple-transverse mode semiconductor ''lasers'', or arrays of individual semiconductor ''lasers'', having a wavelength exceeding 1,050 nm;
c. Solid state, non-''tunable'' ''lasers'', as follows:
c.1. Ruby ''lasers'' having an output energy exceeding 20 J per pulse;
c.2. Neodymium-doped (other than glass) ''lasers'', as follows, with an output wavelength exceeding 1,000 nm but not exceeding 1,100 nm:
c.2.a. Pulse-excited, ''Q-switched lasers'', with a pulse duration equal to or more than 1 ns, and a multiple-transverse mode output with any of the following:
c.2.a.1. A ''peak power'' exceeding 200 mW; or
c.2.a.2. An average output power exceeding 50 W;
c.2.b. Pulse-excited, non-''Q-switched lasers'', having a multiple-transverse mode output with an average power exceeding 500 W; or
c.2.c. Continuously excited ''lasers'' having a multiple-transverse mode output with an average or CW output power exceeding 500 W;
d. Free electron ''lasers''.

6A996 ''Magnetometers'', n.e.s., having a ''noise level'' (sensitivity) lower (better) than 1.0 nT rms per square root Hz.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6A997 Gravity meters (gravimeters) for ground use, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Having a static accuracy of less (better) than 100 microgal; or
b. Being of the quartz element (Worden) type.

6A998 Airborne radar equipment, n.e.s., and specially designed components therefor.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

6B004 Optical equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: Yes for 6B004.b
CIV: Yes for 6B004.b

List of Items Controlled

Unit: Number
Related Controls: This entry does not control microscopes.
Related Definitions: N/A
Items: a. Equipment for measuring absolute reflectance to an accuracy of ±0.1% of the reflectance value;

b. Equipment other than optical surface scattering measurement equipment, having an unobscured aperture of more than 10 cm, specially designed for the non-contact optical measurement of a non-planar optical surface figure (profile) to an ''accuracy'' of 2 nm or less (better) against the required profile.

6B007 Equipment to produce, align and calibrate land-based gravity meters with a static accuracy of better than 0.1 mgal.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6B008 Pulse radar cross-section measurement systems having transmit pulse widths of 100 ns or less and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: See also 6B108
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6B108 Systems, other than those controlled by 6B008, specially designed for radar cross section measurement usable for ''missiles'' and other subsystems.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6B995 Specially designed or modified equipment, including tools, dies, fixtures or gauges, and other specially designed components and accessories therefor:

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. For the manufacture or inspection of:

a.1. Free electron ''laser'' magnet wigglers;

a.2. Free electron ''laser'' photo injectors;

b. For the adjustment, to required tolerances, of the longitudinal magnetic field of free electron ''lasers''.

C. Materials

6C002 Optical sensor materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: See also 6C992
Related Definitions: N/A
Items: a. Elemental tellurium (Te) of purity levels of 99.9995% or more;

b. Single crystals of cadmium telluride (CdTe), cadmium zinc telluride (CdZnTe) or mercury cadmium telluride (HgCdTe) of any purity level, including epitaxial wafers thereof.

6C004 Optical materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1500
GBS: Yes for 6C004.a and .e
CIV: Yes for 6C004.a and .e

List of Items Controlled

Unit: $ value
Related Controls: See also 6C994
Related Definitions: N/A
Items: a. Zinc selenide (ZnSe) and zinc sulphide (ZnS) ''substrate blanks'' produced by the chemical vapor deposition process, having any of the following:

a.1. A volume greater than 100 cm3; or

a.2. A diameter greater than 80 mm having a thickness of 20 mm or more;

b. Boules of the following electro-optic materials:

b.1. Potassium titanyl arsenate (KTA);

b.2. Silver gallium selenide ($AgGaSe_2$);

b.3. Thallium arsenic selenide (Tl_3AsSe_3, also known as TAS;

c. Non-linear optical materials, having all of the following:

c.1. Third order susceptibility (chi 3) of 10^{-6} m^2/V^2 or more; and

c.2. A response time of less than 1 ms;

d. ''Substrate blanks'' of silicon carbide or beryllium beryllium (Be/Be) deposited materials exceeding 300 mm in diameter or major axis length;

e. Glass, including fused silica, phosphate glass, fluorophosphate glass, zirconium fluoride (ZrF_4) and hafnium fluoride (HfF_4), having all of the following:

e.1. A hydroxyl ion (OH-) concentration of less than 5 ppm;

e.2. Integrated metallic purity levels of less than 1 ppm; and

e.3. High homogeneity (index of refraction variance) less than 5×10^{-6};

f. Synthetically produced diamond material with an absorption of less than 10^{-5} cm^{-1} for wavelengths exceeding 200 nm but not exceeding 14,000 nm.

6C005 Synthetic crystalline ''laser'' host material in unfinished form, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: N/A
Related Definitions: N/A
Items: a. Titanium doped sapphire;

b. Alexandrite.

6C992 Optical sensing fibers not controlled by 6A002.d.3 which are modified structurally to have a ''beat length'' of less than 500 mm (high birefringence).

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled in contained in the ECCN heading.

6C994 Optical materials.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Low optical absorption materials, as follows:

a.1. Bulk fluoride compounds containing ingredients with a purity of 99.999% or better; or

Note: 6C994.a.1 controls fluorides of zirconium or aluminum and variants.

a.2. Bulk fluoride glass made from compounds controlled by 6C004.e.1;

b. ''Optical fiber preforms'' made from bulk fluoride compounds containing ingredients with a purity of 99.999% or better, specially designed for the manufacture of ''fluoride fibers'' controlled by 6A994.b.

D. Software

6D001 ''Software'' specially designed for the ''development'' or ''production'' of equipment controlled by 6A004, 6A005, 6A008 or 6B008.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country Chart*
NS applies to ''software'' for equipment controlled by 6A004, 6A005, 6A008 or 6B008.	NS Column 1
MT applies to ''software'' for equipment controlled by 6A008 or 6B008 for MT reasons.	MT Column 1
NP applies to ''software'' for equipment controlled by 6A005 for NP reasons.	NP Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT and for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''software'' for items controlled by 6A008.l.3 or 6B008.

List of Items Controlled

Unit: $ value
Related Controls: See also 6D991
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D002 ''Software'' specially designed for the ''use'' of equipment controlled by 6A002.b, 6A008 or 6B008.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''software'' for equipment controlled by 6A008 or 6B008 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: See also 6D102 and 6D992
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D003 Other ''software'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: Yes for 6D003.h.1
TSR: Yes, except for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''software'' for items controlled by 6D003.a.

List of Items Controlled

Unit: $ value
Related Controls: See also 6D103 and 6D993
Related Definitions: N/A
Items: a. Acoustics ''software'', as follows:

a.1. ''Software'' specially designed for acoustic beam forming for the ''real time processing'' of acoustic data for passive reception using towed hydrophone arrays;

a.2. ''Source code'' for the ''real time processing'' of acoustic data for passive reception using towed hydrophone arrays;

a.3. ''Software'' specially designed for bottom or bay cable systems and having beamforming or ''source code'' for ''real time processing'' of acoustic data for passive reception;

b. Optical sensors. None.

c. Cameras. None.

d. Optics. None.

e. Lasers. None

f. Magnetometers.

f.1. ''Software'' specially designed for magnetic compensation systems for magnetic sensors designed to operate on mobile platforms;

f.2. ''Software'' specially designed for magnetic anomaly detection on mobile platforms;

g. Gravimeters. ''Software'' specially designed to correct motional influences of gravity meters or gravity gradiometers;

h. Radar ''software'', as follows:

h.1. Air Traffic Control ''software'' application ''programs'' hosted on general purpose computers located at Air Traffic Control centers and capable of any of the following:

h.1.a. Processing and displaying more than 150 simultaneous ''system tracks''; or

h.1.b. Accepting radar target data from more than four primary radars;

h.2. ''Software'' for the design or ''production'' of radomes which:

h.2.a. Are specially designed to protect the ''electronically steerable phased array antennae'' controlled by 6A008.e.; and

h.2.b. Result in an antenna pattern having an ''average side lobe level'' more than 40 dB below the peak of the main beam level.

Technical Note: ''Average side lobe level'' in 6D003.h.2.b is measured over the entire array excluding the angular extent of the main beam and the first two side lobes on either side of the main beam.

6D102 ''Software'' specially designed for the ''use'' of goods controlled by 6A108.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

6D103 ''Software'' that processes post-flight, recorded data, obtained from the systems controlled by 6A108.b, enabling determination of vehicle position throughout its flight path.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value

The list of items controlled is contained in the ECCN heading.

6D104 ''Software'' specially designed for the ''use'' of equipment controlled by 6A002, 6A003, 6A007, 6A102, and 6B108, for MT reasons.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D991 ''Software'' specially designed for the ''development'', ''production'', or ''use'' of equipment controlled by 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry, except ''software'' for equipment controlled by 6A991.	AT Column 1
AT applies to ''software'' for equipment controlled by 6A991.	AT Column 2

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D992 ''Software'' specially designed for the ''development'' or ''production'' of equipment controlled by 6A992, 6A994, or 6A995.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6D993 Other ''software'' not controlled by 6D003.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Air Traffic Control (ATC) ''software'' application ''programs'' hosted on general purpose computers located at Air Traffic Control centers, and capable of automatically handing over primary radar target data (if not correlated with secondary surveillance radar (SSR) data) from the host ATC center to another ATC center;

E. Technology

6E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment, materials or ''software'' controlled by 6A (except 6A018, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B, (except 6B995) 6C (6C992 or 6C994) or 6D (except 6D991, 6D992, or 6D993).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	*Country Chart*
NS applies to ''technology'' for items controlled by 6A001 to 6A008, 6B004 to 6B008, 6C002 to 6C005, or 6D001 to 6D003.	NS Column 1
MT applies to ''technology'' for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.	MT Column 1
NP applies to ''technology'' for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 2
RS applies to ''technology'' for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1
CC applies to ''technology'' for equipment controlled by 6A002 for CC reasons.	CC Column 1
AT applies to entire entry	AT Column 1
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except N/A for MT and for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for the ''development'' of equipment or ''software'' in 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c and 6A001.a.2.e when specially designed for real time application, 6A002.a.1.c, 6A008.l.3, 6B008, 6D003.a, or 6D001 when specially designed for the ''development'' or ''production'' of equipment controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, and 6A001.a.2.e as set forth above.

List of Items Controlled

Unit: N/A
Related Controls: See also 6E101, 6E201, and 6E991
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6E002 ''Technology'' according to the General Technology Note for the ''production'' of equipment or materials controlled by 6A (except 6A018, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B, (except 6B995), or 6C (6C992 or 6C994).

License Requirements

Reason for Control: NS, MT, NP, RS, AT, CC, UN

Control(s)	*Country Chart*
NS applies to ''technology'' for equipment controlled by 6A001 to 6A008, 6B004 to 6B008, or 6C002 to 6C005.	NS Column 1
MT applies to ''technology'' for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, or 6B108 for MT reasons.	MT Column 1
NP applies to ''technology'' for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 1
RS applies to ''technology'' for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1
CC applies to ''technology'' for equipment controlled by 6A002 for CC reasons.	CC Column 1
AT applies to entire entry	AT Column 1
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A

TSR: Yes, except N/A for MT and for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for the ''development'' of equipment in 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c and 6A001.a.2.e when specially designed for real time application, 6A002.a.1.c, 6A008.l.3, or 6B008.

List of Items Controlled

Unit: N/A

Related Controls: See also 6E992

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

6E003 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A

TSR: Yes

List of Items Controlled

Unit: N/A

Related Controls: See also 6E993

Related Definitions: N/A

Items: a. Acoustics. None.

b. Optical sensors. None.

c. Cameras. None.

d. Optics, ''technology'', as follows:

d.1. Optical surface coating and treatment ''technology'' ''required'' to achieve uniformity of 99.5% or better for optical coatings 500 mm or more in diameter or major axis length and with a total loss (absorption and scatter) of less than 5×10^{-3};

N.B.: See also 2E003.f.

d.2. Optical fabrication ''technology'' using single point diamond turning techniques to produce surface finish accuracies of better than 10 nm rms on non-planar surfaces exceeding 0.5 m^2;

e. Lasers. ''Technology'' ''required'' for the ''development'', ''production'' or ''use'' of specially designed diagnostic instruments or targets in test facilities for ''SHPL'' testing or testing or evaluation of materials irradiated by ''SHPL'' beams;

f. Magnetometers. ''Technology'' ''required'' for the ''development'' or ''production'' of fluxgate ''magnetometers'' or fluxgate ''magnetometer'' systems, having any of the following:

f.1. A ''noise level'' of less than 0.05 nT rms per square root Hz at frequencies of less than 1 Hz; or

f.2. A ''noise level'' of less than 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more.

6E101 ''Technology'' according to the General Technology Note for the ''use'' of equipment or ''software'' controlled by 6A002, 6A007.b and .c, 6A008, 6A102, 6A107, 6A108, 6B108, 6D102 or 6D103.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: (1) This entry only controls ''technology'' for equipment controlled by 6A008 when it is designed for airborne applications and is usable in ''missiles''. (2) This entry only controls ''technology'' for items in 6A002.a.1, a.3, and e that are specially designed or rated as electromagnetic (including ''laser'') and ionized-particle radiation resistant. (3) This entry only controls ''technology'' for items in 6A007.b and .c when the accuracies in 6A007.b.1 and b.2 are met or exceeded.

Items: The list of items controlled is contained in the ECCN heading.

6E102 ''Technology'' according to the General Technology Note for the ''use'' of ''software'' controlled by 6D001 and 6D002, for MT reasons.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

6E201 ''Technology'' according to the General Technology Note for the ''use'' of equipment controlled by 6A003.a.2, 6A003.a.3, 6A003.a.4, 6A005.a.1.c, 6A005.a.2.a, 6A005.c.1.b, 6A005.c.2.c.2, 6A005.c.2.d.2.b, 6A202, 6A203, 6A205, 6A225 or 6A226.

License Requirements

Reason for Control: NP, AT

Control(s)	*Country Chart*
NP applies to entire entry	NP Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: This entry only controls ''technology'' for items in 6A005.a.2.a with an output power >40 W, 6A005.a.6 argon ''lasers'' only, 6A005.c.1.b with an output power >30 W, 6A005.c.2.c.2.a with an output power >40 W, 6A005.c.2.c.2.b with an output power >40 W, and 6A005.c.2.d.2.b with an output power >40 W.

Items: The list of items controlled is contained in the ECCN heading.

6E991 ''Technology'' for the ''development'', ''production'' or ''use'' equipment controlled by 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry except ''technology'' for equipment controlled by 6A991.	AT Column 1
AT applies to ''technology'' for equipment controlled by 6A991.	AT Column 2

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

6E992 "Technology" for the "development" or "production" of equipment, materials or "software" controlled by 6A992, 6A994, or 6A995, 6B995, 6C992, 6C994, or 6D993.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

6E993 Other "technology", not controlled by 6E003.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Optical fabrication technologies for serially producing optical components at a rate exceeding 10 m^2 of surface area per year on any single spindle and with:

a.1. An area exceeding 1 m^2; and

a.2. A surface figure exceeding lambda/10 rms at the designed wavelength;

b. "Technology" for optical filters with a bandwidth equal to or less than 10 nm, a field of view (FOV) exceeding 40° and a resolution exceeding 0.75 line pairs per milliradian;

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 7—Navigation and Avionics

A. Systems, Equipment and Components

N.B.: For automatic pilots for underwater vehicles, see Category 8. For radar, see Category 6.

Note to Category 7A: For inertial navigation equipment for ships or submersibles see item 9.e on the Wassenaar Munitions List.

7A001 Accelerometers designed for use in inertial navigation or guidance systems and having any of the following characteristics (see List of Items Controlled), and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 7A101 and 7A994. MT controls do not apply to accelerometers that are specially designed and developed as Measurement While Drilling (MWD) sensors for use in downhole well service applications.
Related Definitions: N/A
Items: a. A "bias" "stability" of less (better) than 130 micro g with respect to a fixed calibration value over a period of one year;

b. A "scale factor" "stability" of less (better) than 130 ppm with respect to a fixed calibration value over a period of one year; *or*

c. Specified to function at linear acceleration levels exceeding 100 g.

7A002 Gyros having any of the following characteristics (see List of Items Controlled), and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 7A102 and 7A994
Related Definitions: N/A
Items: a. A "drift rate" "stability", when measured in a 1 g environment over a period of three months and with respect to a fixed calibration value, of:

a.1. Less (better) than 0.1° per hour when specified to function at linear acceleration levels below 10 g; or

a.2. Less (better) than 0.5° per hour when specified to function at linear acceleration levels from 10 g to 100 g inclusive; or

b. Specified to function at linear acceleration levels exceeding 100 g.

7A003 Inertial navigation systems (gimballed or strapdown) and inertial equipment designed for "aircraft", land vehicle or "spacecraft" for attitude, guidance or control, having any of the following characteristics (see List of Items Controlled), and specially designed components therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 7A103 and 7A994. Inertial navigation systems and inertial equipment, and specially designed components therefor specifically designed, modified or configured for military use are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items: a. Navigation error (free inertial) subsequent to normal alignment of 0.8 nautical mile per hour (50% Circular Error Probable (CEP)) or less (better); or

b. Specified to function at linear acceleration levels exceeding 10 g.

Note: The parameters of 7A003.a are applicable with any of the following environmental conditions:

1. Input random vibration with an overall magnitude of 7.7 g rms in the first half hour and a total test duration of one and one half hour per axis in each of the three perpendicular axes, when the random vibration meets the following:

a. A constant power spectral density (PSD) value of 0.04 g^2/Hz over a frequency interval of 15 to 1,000 Hz; and

b. The PSD attenuates with frequency from 0.04 g^2/Hz to 0.01 g^2/Hz over a frequency interval from 1,000 to 2,000 Hz; or

2. A roll and yaw rate of equal to or more than +2.62 radian/s (150 deg/s); or

3. According to national standards equivalent to 1. or 2. of this note.

Note: 7A003 does not control inertial navigation systems that are certified for use on "civil aircraft" by civil authorities of a "participating state" in Country Group A:1.

7A004 Gyro-astro compasses, and other devices which derive position or orientation by means of automatically tracking celestial bodies or satellites, with an azimuth accuracy of equal to or less (better) than 5 seconds of arc.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 7A104 and 7A994
Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

7A005 Global navigation satellite systems (i.e. GPS or GLONASS) receiving equipment, and specially designed components therefor. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A006 Airborne altimeters operating at frequencies other than 4.2 to 4.4 GHz inclusive, having any of the following characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
S applies to entire entry ...	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 7A106, 7A994 and Category 6 for controls on radar.
Related Definitions: N/A
Items: a. ''Power management''; or
b. Using phase shift key modulation.

7A007 Direction finding equipment operating at frequencies above 30 MHz and specially designed components therefor. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A101 Accelerometers, other than those controlled by 7A001, with a threshold of 0.05 g or less, or a linearity error within 0.25% of full scale output, or both, which are designed for use in inertial navigation systems or in guidance systems of all types and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry does not control accelerometers which are specially designed and developed as MWD (Measurement While Drilling) sensors for use in downhole well service operations.
Related Definitions: N/A
Items: The list of items is included in the entry heading.

7A102 All types of gyros, other than those controlled by 7A002, usable in ''missiles'', with a rated ''drift rate'' ''stability'' of less than 0.5° (1 sigma or rms) per hour in a 1 g environment and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: (1) Drift rate is defined as the time rate of output deviation from the desired output. It consists of random and systematic components and is expressed as an equivalent angular displacement per unit time with respect to inertial space. (2) Stability is defined as standard deviation (1 sigma) of the variation of a particular parameter from its calibrated value measured under stable temperature conditions. This can be expressed as a function of time.
Items: The list of items controlled is contained in the ECCN heading.

7A103 Instrumentation, navigation equipment and systems, other than those controlled by 7A003, and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) Items described in 7A103.b are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121). (2) Inertial navigation systems and inertial equipment, and specially designed components therefor specifically designed, modified or configured for military use are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items: a. Inertial or other equipment using accelerometers or gyros controlled by 7A001, 7A002, 7A101 or 7A102 and systems incorporating such equipment;

Note: 7A103.a does not control equipment containing accelerometers specially designed and developed as MWD (Measurement While Drilling) sensors for use in down-hole well services operations.

b. Integrated flight instrument systems, which include gyrostabilizers or automatic pilots, designed or modified for use in ''missiles''.

7A104 Gyro-astro compasses and other devices, other than those controlled by 7A004, which derive position or orientation by means of automatically tracking celestial bodies or satellites and specially designed components therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: This entry controls specially designed components for gyro-astro compasses and other devices controlled by 7A004
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

7A105 Global Positioning Systems (GPS) or similar satellite receivers, other than those controlled by 7A005, and designed or modified for use in ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A106 Altimeters, other than those controlled by 7A006, of radar or laser radar type, designed or modified for use in ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A115 Passive sensors for determining bearing to specific electromagnetic source (direction finding equipment) or terrain characteristics, designed or modified for use in ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A116 Flight control systems (hydraulic, mechanical, electro-optical, or electro-mechanical flight control systems (including fly-by-wire systems) and attitude control equipment) designed or modified for ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A117 ''Guidance sets'' capable of achieving system accuracy of 3.33% or less of the range (e.g., a ''CEP'' of 10 km or less at a range of 300 km). (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7A994 Other navigation direction finding equipment, airborne communication equipment, all aircraft inertial navigation systems not controlled under 7A003 or 7A103, and other avionic equipment, including parts and components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: (1) Global Positioning Satellite receivers having the following characteristics are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121): (a) Designed for encryption or decryption (e.g., Y-code) of GPS precise positioning service (PPS) signal; (b) Designed for producing navigation results above 60,000 feet altitude and at 1,000 knots velocity or greater; (c) Specifically designed or modified for use with a null-steering antenna or including a null-steering antenna designed to reduce or avoid jamming signals; or (d) Designed or modified for use with unmanned air vehicle systems capable of delivering at least a 500 kg payload to a range of at least 300 km. (GPS receivers designed or modified for use with military unmanned air vehicle systems with less capability are considered to be specially designed, modified or configured for military use are controlled by 22 CFR part 121. (2) This entry controls direction finding equipment that is not subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121).

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

B. Test, Inspection and Production Equipment

7B001 Test, calibration or alignment equipment specially designed for equipment controlled by 7A (except 7A994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: (1) See also 7B102 and 7B994. (2) This entry does not control test, calibration or alignment equipment for Maintenance level I.

Related Definition: (1) Maintenance Level I: The failure of an inertial navigation unit is detected on the aircraft by indications from the Control and Display Unit (CDU) or by the status message from the corresponding sub-system. By following the manufacturer's manual, the cause of the failure may be localized at the level of the malfunctioning line replaceable unit (LRU). The operator then removes the LRU and replaces it with a spare. (2) Maintenance Level II: The defective LRU is sent to the maintenance workshop (the manufacturer's or that of the operator responsible for level II maintenance). At the maintenance workshop, the malfunctioning LRU is tested by various appropriate means to verify and localize the defective shop replaceable assembly (SRA) module responsible for the failure. This SRA is removed and replaced by an operative spare. The defective SRA (or possibly the complete LRU) is then shipped to the manufacturer. Maintenance Level II does not include the removal of controlled accelerometers or gyro sensors from the SRA.

Items: The list of items controlled is contained in the ECCN heading.

7B002 Equipment, as follows (see List of Items Controlled), specially designed to characterize mirrors for ring ''laser'' gyros.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: See also 7B102 and 7B994

Related Definitions: N/A

Items: a. Scatterometers having a measurement accuracy of 10 ppm or less (better);

b. Profilometers having a measurement accuracy of 0.5 nm (5 angstrom) or less (better).

7B003 Equipment specially designed for the ''production'' of equipment controlled by 7A (except 7A994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: (1) See also 7B103 and 7B994. 2.) This entry includes: inertial measurement unit tester (IMU module); IMU platform tester; IMU stable element handling fixture; IMU platform balance fixture; gyro tuning test stations; gyro dynamic balance stations; gyro run-in/motor test stations; gyro evacuation and fill stations; centrifuge fixtures for gyro bearings; accelerometer axis align station; and accelerometer test station

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

7B102 Equipment, as follows (see List of Items Controlled), other than those controlled by 7B002, specially designed to characterize mirrors, for laser gyro equipment.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: N/A

Items: a. Scatterometers having a measurement accuracy of 10 ppm or less (better).

b. Reflectometers having a measurement accuracy of 50 ppm or less (better).

c. Prolifometers having a measurement accuracy of 0.5nm (5 angstrom) or less (better).

7B103 Specially designed ''production facilities'' for equipment controlled by 7A117. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7B994 Other equipment for the test, inspection, or ''production'' of navigation and avionics equipment.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

C. Materials [Reserved]

D. Software

7D001 ''Software'' specially designed or modified for the ''development'' or ''production'' of equipment controlled by 7A (except 7A994) or 7B (except 7B994).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country Chart*
NS applies to ''software'' for equipment controlled by 7A001 to 7A004, 7A006, 7B001, 7B002 or 7B003.	NS Column 1
MT applies to entire entry	MT Column 1
RS applies to ''software'' for inertial navigation systems inertial equipment, and specially designed components therefor, for ''civil aircraft'' DRS Column 1.	
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) See also 7D101 and 7D994. (2) The ''software'' related to 7A003.b, 7A005, 7A007, 7A103.b, 7A105, 7A106, 7A115, 7A116, 7A117, or 7B103 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (3) ''Software'' for inertial navigation systems and inertial equipment, and specially designed components therefor, not for use on civil aircraft are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

7D002 ''Source code'' for the ''use'' of any inertial navigation equipment or Attitude and Heading Reference Systems (AHRS) (except gimballed AHRS) including inertial equipment not controlled by 7A003 or 7A004.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) See also 7D102 and 7D994. (2) This entry does not control ''source code'' for the ''use'' of gimballed AHRS
Related Definition: AHRS generally differ from inertial navigation systems (INS) in that an AHRS provides attitude and heading information and normally does not provide the acceleration, velocity and position information associated with an INS
Items: The list of items controlled is contained in the ECCN heading

7D003 Other ''software'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

List of Items Controlled

Unit: $ value
Related Controls: See also 7D103 and 7D994
Related Definitions: N/A
Items: a. ''Software'' specially designed or modified to improve the operational performance or reduce the navigational error of systems to the levels controlled by 7A003 or 7A004;

b. ''Source code'' for hybrid integrated systems that improves the operational performance or reduces the navigational error of systems to the level controlled by 7A003 by continuously combining inertial data with any of the following navigation data:

b.1. Doppler radar velocity;

b.2. Global navigation satellite systems (i.e., GPS or GLONASS) reference data; or

b.3. Terrain data from data bases;

c. ''Source code'' for integrated avionics or mission systems that combine sensor data and employ ''expert systems'';

d. ''Source code'' for the ''development'' of any of the following:

d.1. Digital flight management systems for ''total control of flight'';

d.2. Integrated propulsion and flight control systems;

d.3. Fly-by-wire or fly-by-light control systems;

d.4. Fault-tolerant or self-reconfiguring ''active flight control systems'';

d.5. Airborne automatic direction finding equipment;

d.6. Air data systems based on surface static data; or

d.7. Raster-type head-up displays or three dimensional displays;

e. Computer-aided-design (CAD) ''software'' specially designed for the ''development'' of ''active flight control systems'', helicopter multi-axis fly-by-wire or fly-by-light controllers or helicopter ''circulation controlled anti-torque or circulation-controlled direction control systems'' whose ''technology'' is controlled by 7E004.b, 7E004.c.1 or 7E004.c.2.

7D101 ''Software'' specially designed for the ''use'' of equipment controlled by 7A001 to 7A006, 7A101 to 7A106, 7A115, 7B001, 7B002, 7B003, 7B102 or 7B103.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) The ''software'' related to 7A003.b, 7A005, 7A103.b, 7A105, 7A106, 7A115, 7A116, 7A117, or 7B103 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (2) ''Software'' for inertial navigation systems and inertial equipment, and specially designed components therefor, not designed for use on civil aircraft by civil aviation authorities of a country listed in Country Group A:1 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

7D102 Integration ''software'' for the equipment controlled by 7A003 or 7A103.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: The ''software'' related to 7A003.b or 7A103.b are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

7D103 ''Software'' specially designed for modelling or simulation of the ''guidance sets'' controlled by 7A117 or for their design integration with ''missiles''. (This entry is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7D994 ''Software'', n.e.s., for the ''development'', ''production'', or ''use'' of navigation, airborne communication and other avionics.

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

E. Technology

7E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment or ''software'' controlled by 7A (except 7A994), 7B (except 7B994) or 7D (except 7D994).

License Requirements

Reason for Control: MT, NS, RS, AT

Control(s)	Country Chart
NS applies to ''technology'' for items controlled by 7A001 to 7A004, 7A006, 7B001 to 7B003, 7D001 to 7D003.	NS Column 1
MT applies to entire entry	MT Column 1
RS applies to ''technology'' for inertial navigation systems, inertial equipment and specially designed components therefor, for civil aircraft.	RS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 7E101 and 7E994. (2.) The ''technology'' related to 7A003.b, 7A005, 7A007, 7A103.b, 7A105, 7a106, 7A115, 7A116, 7A117, or 7B103 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Control (see 22 CFR part 121)
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

7E002 ''Technology'' according to the General Technology Note for the ''production'' of equipment controlled by 7A (except 7A994) or 7B (except 7B994).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country Chart
NS applies to ''technology'' for equipment controlled by 7A001 to 7A004, 7A006 or 7B001 to 7B003.	NS Column 1
MT applies to entire entry	MT Column 1
RS applies to ''technology'' for inertial navigation systems, inertial equipment and specially designed components therefor, for civil aircraft.	RS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 7E102 and 7E994. (2) The ''technology'' related to 7A003.b, 7A005, 7A007, 7A103.b, 7A105, 7A106, 7A115, 7A116, 7A117, or 7B103 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

7E003 ''Technology'' according to the General Technology Note for the repair, refurbishing or overhaul of equipment controlled by 7A001 to 7A004.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: See also 7E994. This entry does not control maintenance ''technology'' directly associated with calibration, removal or replacement of damaged or unserviceable LRUs and SRAs of a ''civil aircraft'' as described in Maintenance Level I or Maintenance Level II
Related Definition: Refer to the Related Definitions for 7B001
Items: The list of items controlled is contained in the ECCN heading

7E004 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: See also 7E104 and 7E994
Related Definitions: N/A
Items: a. ''Technology'' for the ''development'' or ''production'' of:

a.1. Airborne automatic direction finding equipment operating at frequencies exceeding 5 MHz;

a.2. Air data systems based on surface static data only, i.e., that dispense with conventional air data probes;

a.3. Raster-type head-up displays or three dimensional displays for ''aircraft'';

a.4. Inertial navigation systems or gyro-astro compasses containing accelerometers or gyros controlled by 7A001 or 7A002;

a.5. Electric actuators (i.e., electromechanical, electrohydrostatic and integrated actuator package) specially designed for ''primary flight control'';

a.6. ''Flight control optical sensor array'' specially designed for implementing ''active flight control systems'';

b. ''Development'' ''technology'', as follows, for ''active flight control systems'' (including fly-by-wire or fly-by-light):

b.1. Configuration design for interconnecting multiple microelectronic processing elements (on-board computers) to achieve ''real time processing'' for control law implementation;

b.2. Control law compensation for sensor location or dynamic airframe loads, i.e., compensation for sensor vibration environment or for variation of sensor location from the center of gravity;

b.3. Electronic management of data redundancy or systems redundancy for fault detection, fault tolerance, fault isolation or reconfiguration;

Note: 7E004.b.3. does not control ''technology'' for the design of physical redundancy.

b.4. Flight controls that permit inflight reconfiguration of force and moment controls for real time autonomous air vehicle control;

b.5. Integration of digital flight control, navigation and propulsion control data into a digital flight management system for ''total control of flight'';

Note: 7E004.b.5 does not control:

1. ''Development'' ''technology'' for integration of digital flight control, navigation and propulsion control data into a digital flight management system for ''flight path optimization'';

2. ''Development'' ''technology'' for ''aircraft'' flight instrument systems integrated solely for VOR, DME, ILS or MLS navigation or approaches.

b.6. Full authority digital flight control or multisensor mission management systems employing ''expert systems'';

N.B.: For ''technology'' for Full Authority Digital Engine Control (''FADEC''), see 9E003.a.9.

c. ''Technology'' for the ''development'' of helicopter systems, as follows:

c.1. Multi-axis fly-by-wire or fly-by-light controllers that combine the functions of at least two of the following into one controlling element:

c.1.a. Collective controls;

c.1.b. Cyclic controls;

c.1.c. Yaw controls;

c.2. ''Circulation-controlled anti-torque or circulation-controlled directional control systems'';

c.3. Rotor blades incorporating ''variable geometry airfoils'' for use in systems using individual blade control.

7E101 ''Technology'', other than ''technology'' controlled by 7E003, according to the General Technology Note for the ''use'' of equipment controlled by 7A001 to 7A006, 7A101 to 7A106, 7A115 to 7A117, 7B001, 7B002, 7B003, 7B102, 7B103, 7D101 to 7D103.

License Requirements

Reason for Control: MT, RS, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
RS applies to ''use'' of inertial navigation systems, inertial equipment and specially designed components therefor, for civil aircraft.	RS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: 1.) The ''technology'' related to 7A003.b, 7A005, 7A103.b, 7A105, 7A016, 7A115, 7A116, 7A117, 7B103, or 7D103 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) 2.) ''Technology'' for inertial navigation systems and inertial equipment, and specially designed components therefor, not for use on civil aircraft are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

7E102 ''Technology'' for protection of avionics and electrical subsystems against electromagnetic pulse (EMP) and electromagnetic interference (EMI) hazards, from external sources, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: a. Design ''technology'' for shielding systems;

b. Design ''technology'' for the configuration of hardened electrical circuits and subsystems;

c. Design ''technology'' for the determination of hardening criteria of .a and .b of this entry.

7E104 ''Technology'' for the integration of the flight control, guidance, and propulsion data into a flight management system for optimization of rocket system trajectory. (This entry is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

7E994 ''Technology'', n.e.s., for the ''development'', ''production'', or ''use'' of navigation, airborne communication, and other avionics equipment.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 8—Marine

A. Systems, Equipment and Components

8A001 Submersible vehicles and surface vessels, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000; N/A for 8A001.b and .d
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: For the control status of equipment for submersible vehicles, see: Category 5, Part 2 ''Information Security'' for encrypted communication equipment; Category 6 for sensors; Categories 7 and 8 for navigation equipment; Category 8A for underwater equipment.
Related Definitions: N/A
Items: a. Manned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m;

b. Manned, untethered submersible vehicles, having any of the following:

b.1. Designed to operate autonomously and having a lifting capacity of all the following:

b.1.a. 10% or more of their weight in air; *and*

b.1.b. 15 kN or more;

b.2. Designed to operate at depths exceeding 1,000 m; *or*

b.3. Having all of the following:

b.3.a. Designed to carry a crew of 4 or more;

b.3.b. Designed to operate autonomously for 10 hours or more;

b.3.c. Having a range of 25 nautical miles or more; *and*

b.3.d. Having a length of 21 m or less;

Technical Notes:

1. For the purposes of 8A001.b, ''operate autonomously'' means fully submerged, without snorkel, all systems working and cruising at minimum speed at which the submersible can safely control its depth dynamically by using its depth planes only, with no need for a support vessel or support base on the surface, sea-bed or shore, and containing a propulsion system for submerged or surface use.

2. For the purposes of 8A001.b, ''range'' means half the maximum distance a submersible vehicle can cover.

c. Unmanned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m, having any of the following:

c.1. Designed for self-propelled manoeuvre using propulsion motors or thrusters controlled by 8A002.a.2; or

c.2. Having a fiber optic data link;

d. Unmanned, untethered submersible vehicles, having any of the following:

d.1. Designed for deciding a course relative to any geographical reference without real-time human assistance;

d.2. Having an acoustic data or command link; or

d.3. Having a fiber optic data or command link exceeding 1,000 m;

e. Ocean salvage systems with a lifting capacity exceeding 5 MN for salvaging objects from depths exceeding 250 m and having any of the following:

e.1. Dynamic positioning systems capable of position keeping within 20 m of a given point provided by the navigation system; or

e.2. Seafloor navigation and navigation integration systems for depths exceeding 1,000 m with positioning accuracies to within 10 m of a predetermined point;

f. Surface-effect vehicles (fully skirted variety) having all of the following characteristics:

f.1. A maximum design speed, fully loaded, exceeding 30 knots in a significant wave height of 1.25 m (Sea State 3) or more;

f.2. A cushion pressure exceeding 3,830 Pa; and

f.3. A light-ship-to-full-load displacement ratio of less than 0.70;

g. Surface-effect vehicles (rigid sidewalls) with a maximum design speed, fully loaded, exceeding 40 knots in a significant wave height of 3.25 m (Sea State 5) or more;

h. Hydrofoil vessels with active systems for automatically controlling foil systems, with a maximum design speed, fully loaded, of 40 knots or more in a significant wave height of 3.25 m (Sea State 5) or more;

i. Small waterplane area vessels having any of the following:

i.1. A full load displacement exceeding 500 tons with a maximum design speed, fully loaded, exceeding 35 knots in a significant wave height of 3.25 m (Sea State 5) or more; or

i.2. A full load displacement exceeding 1,500 tons with a maximum design speed, fully loaded, exceeding 25 knots in a significant wave height of 4 m (Sea State 6) or more.

Technical Note: A small waterplane area vessel is defined by the following formula: waterplane area at an operational design draught less than $2 \times$(displaced volume at the operational design draught)$^{2/3}$.

8A002 Systems and equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000; N/A for 8A002.o.3.b

GBS: Yes for 8A002.e.2 and manipulators for civil end-uses (e.g., underwater oil, gas or mining operations) controlled by 8A002.i.2 and having 5 degrees of freedom of movement

CIV: Yes for 8A002.e.2 and manipulators for civil end-uses (e.g., underwater oil, gas or mining operations) controlled by 8A002.i.2 and having 5 degrees of freedom of movement

List of Items Controlled

Unit: Equipment in number

Related Controls: See also 8A992 and for underwater communications systems, see Category 5, Part I—Telecommunications.

Related Definitions: N/A

Items: a. Systems and equipment, specially designed or modified for submersible vehicles, designed to operate at depths exceeding 1,000 m, as follows:

a.1. Pressure housings or pressure hulls with a maximum inside chamber diameter exceeding 1.5 m;

a.2. Direct current propulsion motors or thrusters;

a.3. Umbilical cables, and connectors therefor, using optical fiber and having synthetic strength members;

b. Systems specially designed or modified for the automated control of the motion of equipment for submersible vehicles controlled by 8A001 using navigation data and having closed loop servo-controls:

b.1. Enabling a vehicle to move within 10 m of a predetermined point in the water column;

b.2. Maintaining the position of the vehicle within 10 m of a predetermined point in the water column; or

b.3. Maintaining the position of the vehicle within 10 m while following a cable on or under the seabed;

c. Fiber optic hull penetrators or connectors;

d. Underwater vision systems, as follows:

d.1. Television systems and television cameras, as follows:

d.1.a. Television systems (comprising camera, monitoring and signal transmission equipment) having a limiting resolution when measured in air of more than 800 lines and specially designed or modified for remote operation with a submersible vehicle;

d.1.b. Underwater television cameras having a limiting resolution when measured in air of more than 1,100 lines;

d.1.c. Low light level television cameras specially designed or modified for underwater use containing all of the following:

d.1.c.1. Image intensifier tubes controlled by 6A002.a.2.a; and

d.1.c.2. More than 150,000 ''active pixels'' per solid state area array;

Technical Note: Limiting resolution in television is a measure of horizontal resolution usually expressed in terms of the maximum number of lines per picture height discriminated on a test chart, using IEEE Standard 208/1960 or any equivalent standard.

d.2. Systems, specially designed or modified for remote operation with an underwater vehicle, employing techniques to minimize the effects of back scatter, including range-gated illuminators or ''laser'' systems;

e. Photographic still cameras specially designed or modified for underwater use below 150 m having a film format of 35 mm or larger, and having any of the following:

e.1. Annotation of the film with data provided by a source external to the camera;

e.2. Automatic back focal distance correction; or

e.3. Automatic compensation control specially designed to permit an underwater camera housing to be usable at depths exceeding 1,000 m;

f. Electronic imaging systems, specially designed or modified for underwater use, capable of storing digitally more than 50 exposed images;

g. Light systems, as follows, specially designed or modified for underwater use:

g.1. Stroboscopic light systems capable of a light output energy of more than 300 J per flash and a flash rate of more than 5 flashes per second;

g.2. Argon arc light systems specially designed for use below 1,000 m;

h. ''Robots'' specially designed for underwater use, controlled by using a dedicated ''stored program controlled'' computer, having any of the following:

h.1. Systems that control the ''robot'' using information from sensors which measure force or torque applied to an external object, distance to an external object, or tactile sense between the ''robot'' and an external object; or

h.2. The ability to exert a force of 250 N or more or a torque of 250 Nm or more and using titanium based alloys or ''fibrous or filamentary'' ''composite'' materials in their structural members;

i. Remotely controlled articulated manipulators specially designed or modified for use with submersible vehicles, having any of the following:

i.1. Systems which control the manipulator using the information from sensors which measure the torque or force applied to an external object, or tactile sense between the manipulator and an external object; or

i.2. Controlled by proportional master-slave techniques or by using a dedicated ''stored program controlled'' computer, and having 5 degrees of freedom of movement or more;

Note: Only functions having proportional control using positional feedback or by using a dedicated ''stored program controlled'' computer are counted when determining the number of degrees of freedom of movement.

j. Air independent power systems, specially designed for underwater use, as follows:

j.1. Brayton or Rankine cycle engine air independent power systems having any of the following:

j.1.a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.1.b. Systems specially designed to use a monoatomic gas;

j.1.c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; or

j.1.d. Systems specially designed:

j.1.d.1. To pressurize the products of reaction or for fuel reformation;

j.1.d.2. To store the products of the reaction; and

j.1.d.3. To discharge the products of the reaction against a pressure of 100 kPa or more;

j.2. Diesel cycle engine air independent systems, having all of the following:

j.2.a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.2.b. Systems specially designed to use a monoatomic gas;

j.2.c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; and

j.2.d. Specially designed exhaust systems that do not exhaust continuously the products of combustion;

j.3. Fuel cell air independent power systems with an output exceeding 2 kW having any of the following:

j.3.a. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; or

j.3.b. Systems specially designed:

j.3.b.1. To pressurize the products of reaction or for fuel reformation;

j.3.b.2. To store the products of the reaction; and

j.3.b.3. To discharge the products of the reaction against a pressure of 100 kPa or more;

j.4. Stirling cycle engine air independent power systems, having all of the following:

j.4.a. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; and

j.4.b. Specially designed exhaust systems which discharge the products of combustion against a pressure of 100 kPa or more;

k. Skirts, seals and fingers, having any of the following:

k.1. Designed for cushion pressures of 3,830 Pa or more, operating in a significant wave height of 1.25 m (Sea State 3) or more and specially designed for surface effect vehicles (fully skirted variety) controlled by 8A001.f; or

k.2. Designed for cushion pressures of 6,224 Pa or more, operating in a significant wave height of 3.25 m (Sea State 5) or more and specially designed for surface effect vehicles (rigid sidewalls) controlled by 8A001.g;

l. Lift fans rated at more than 400 kW specially designed for surface effect vehicles controlled by 8A001.f or 8A001.g;

m. Fully submerged subcavitating or supercavitating hydrofoils specially designed for vessels controlled by 8A001.h;

n. Active systems specially designed or modified to control automatically the sea-induced motion of vehicles or vessels controlled by 8A001.f, 8A001.g, 8A001.h or 8A001.i;

o. Propellers, power transmission systems, power generation systems and noise reduction systems, as follows:

o.1. Water-screw propeller or power transmission systems, as follows, specially designed for surface effect vehicles (fully skirted or rigid sidewall variety), hydrofoils or small waterplane area vessels controlled by 8A001.f, 8A001.g, .8A001.h or 8A001.i:

o.1.a. Supercavitating, super-ventilated, partially-submerged or surface piercing propellers rated at more than 7.5 MW;

o.1.b. Contrarotating propeller systems rated at more than 15 MW;

o.1.c. Systems employing pre-swirl or post-swirl techniques for smoothing the flow into a propeller;

o.1.d. Light-weight, high capacity (K factor exceeding 300) reduction gearing;

o.1.e. Power transmission shaft systems, incorporating ''composite'' material components, capable of transmitting more than 1 MW;

o.2. Water-screw propeller, power generation systems or transmission systems designed for use on vessels, as follows:

o.2.a. Controllable-pitch propellers and hub assemblies rated at more than 30 MW;

o.2.b. Internally liquid-cooled electric propulsion engines with a power output exceeding 2.5 MW;

o.2.c. ''Superconductive'' propulsion engines, or permanent magnet electric propulsion engines, with a power output exceeding 0.1 MW;

o.2.d. Power transmission shaft systems, incorporating ''composite'' material components, capable of transmitting more than 2 MW;

o.2.e. Ventilated or base-ventilated propeller systems rated at more than 2.5 MW;

o.3. Noise reduction systems designed for use on vessels of 1,000 tons displacement or more, as follows:

o.3.a. Systems that attenuate underwater noise at frequencies below 500 Hz and consist of compound acoustic mounts for the acoustic isolation of diesel engines, diesel generator sets, gas turbines, gas turbine generator sets, propulsion motors or propulsion reduction gears, specially designed for sound or vibration isolation, having an intermediate mass exceeding 30% of the equipment to be mounted;

o.3.b. Active noise reduction or cancellation systems, or magnetic bearings, specially designed for power transmission systems, and incorporating electronic control systems capable of actively reducing equipment vibration by the generation of anti-noise or anti-vibration signals directly to the source;

p. Pumpjet propulsion systems having a power output exceeding 2.5 MW using divergent nozzle and flow conditioning vane techniques to improve propulsive efficiency or reduce propulsion-generated underwater-radiated noise;

8A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Closed and semi-closed circuit (rebreathing) apparatus for diving and underwater swimming, and specially designed components for use in the conversion of open-circuit apparatus to military use;

b. Naval equipment, as follows:

b.1. Diesel engines of 1,500 hp and over with rotary speed of 700 rpm or over specially designed for submarines;

b.2. Electric motors specially designed for submarines, i.e., over 1,000 hp, quick reversing type, liquid cooled, and totally enclosed;

b.3. Nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes. (An engine shall be presumed to be specially designed for military purposes if it has nonmagnetic parts other than crankcase, block, head, pistons, covers, end plates, valve facings, gaskets, and fuel, lubrication and other supply lines, or its nonmagnetic content exceeds 75 percent of total weight.);

b.4. Marine boilers designed to have any of the following characteristics:

b.4.a. Heat release rate (at maximum rating) equal to or in excess of 190,000 BTU per hour per cubic foot of furnace volume; or

b.4.b. Ratio of steam generated in pounds per hour (at maximum rating) to the dry weight of the boiler in pounds equal to or in excess of 0.83;

b.5. Submarine and torpedo nets; and

b.6. Components, parts, accessories, and attachments for the above.

8A992 Underwater systems or equipment, not controlled by 8A002, and specially designed parts therefor.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Underwater vision systems, as follows:

a.1. Television systems (comprising camera, lights, monitoring and signal transmission equipment) having a limiting resolution when measured in air of more than 500 lines and specially designed or modified for remote operation with a submersible vehicle; or

a.2. Underwater television cameras having a limiting resolution when measured in air of more than 700 lines;

Technical Note: Limiting resolution in television is a measure of horizontal resolution usually expressed in terms of the maximum number of lines per picture height discriminated on a test chart, using IEEE Standard 208/1960 or any equivalent standard.

b. Photographic still cameras specially designed or modified for underwater use, having a film formate of 35 mm or larger, and having autofocussing or remote focussing specially designed for underwater use;

c. Stroboscopic light systems, specially designed or modified for underwater use, capable of a light output energy of more than 300 J per flash;

d. Other underwater camera equipment, n.e.s.;

e. Other submersible systems, n.e.s.;

f. Boats, n.e.s., including inflatable boats, and specially designed components therefor, n.e.s.;

g. Marine engines (both inboard and outboard) and submarine engines, n.e.s; and specially designed parts therefor, n.e.s.;

h. Other self-contained underwater breathing apparatus (scuba gear) and related equipment, n.e.s.;

i. Pressure regulators, air cylinders, hoses, valves and backpacks for the apparatus described in paragraph 8A002.q;

j. Life jackets, inflation cartridges, compasses, wetsuits, masks, fins, weight belts, and dive computers;

k. Underwater lights and propulsion equipment;

l. Air compressors and filtration systems specially designed for filling air cylinders.

B. Test, Inspection and Production Equipment

8B001 Water tunnels, having a background noise of less than 100 dB (reference 1 μPa, 1 Hz) in the frequency range from 0 to 500 Hz, designed for measuring acoustic fields generated by a hydro-flow around propulsion system models.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

C. Materials

8C001 Syntactic foam designed for underwater use, having all of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definition: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix
Items: a. Designed for marine depths exceeding 1,000 m; *and*
b. A density less than 561 kg/m^3.

D. Software

8D001 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment or materials controlled by 8A (except 8A018 or 8A992), 8B or 8C.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''software'' specially designed for the ''development'' or ''production'' of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

8D002 Specific ''software'' specially designed or modified for the ''development'', ''production'', repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: $ value
Related Controls: See also 8D992
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

8D992 ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 8A992.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

E. Technology

8E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment or materials controlled by 8A (except 8A018 or 8A992), 8B or 8C.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes, except for exports or reexports to destinations outside of Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom of ''technology'' for items controlled by 8A001.b, 8A001.d, or 8A002.o.3.b
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

8E002 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: Yes

List of Items Controlled

Unit: N/A
Related Controls: See also 8E992
Related Definitions: N/A
Items: a. ''Technology'' for the ''development'', ''production'', repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction;
b. ''Technology'' for the overhaul or refurbishing of equipment controlled by 8A001, 8A002.b, 8A002.j, 8A002.o or 8A002.p.

8E992 ''Technology'' for the ''development'', ''production'' or ''use'' of equipment controlled by 8A992.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading'

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Category 9—Propulsion Systems, Space Vehicles and Related Equipment

A. Systems, Equipment and Components

(For propulsion systems designed or rated against neutron or transient ionizing radiation, see the U.S. Munitions List, 22 CFR part 121.)

9A001 Aero gas turbine engines incorporating any of the ''technologies'' controlled by 9E003.a, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to only to those engines that meet the characteristics listed in 9A101.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: See also 9A101 and 9A991
Related Definitions: N/A
Items: a. Not certified for the specific ''civil aircraft'' for which they are intended;

Note: For the purpose of the ''civil aircraft'' certification process, a number of up to 16 civil certified engines, assemblies, or components including spares is considered appropriate.

b. Not certified for civil use by the aviation authorities in Country Group A:1;

c. Designed to cruise at speeds exceeding Mach 1.2 for more than thirty minutes.

9A002 Marine gas turbine engines with an ISO standard continuous power rating of 24,245 kW or more and a specific fuel consumption not exceeding 0.219 kg/kWh in the power range from 35 to 100%, and specially designed assemblies and components therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definition: The term ''marine gas turbine engines'' includes those industrial, or aero-derivative, gas turbine engines adapted for a ship's electric power generation or propulsion
Items: The list of items controlled is contained in the ECCN heading

9A003 Specially designed assemblies and components, incorporating any of the ''technologies'' controlled by 9E003.a, for gas turbine engine propulsion systems, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definition: N/A
Items: a. Controlled by 9A001;

b. Whose design or production origins are either countries in Country Group D:1 or unknown to the manufacturer.

9A004 Space launch vehicles and ''spacecraft''.

License Requirements

Reason for Control: NS, SI, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
SI applies to commercial communications satellites controlled by 9A004 that include the individual munitions list systems, components, or parts identified on the United States Munitions List (USML). 22 CFR part 121. See § 742.14 of the EAR for additional information.	
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components, parts and accessories in $ value
Related Controls: (1) See also 9A104 (2) This entry describes space launch vehicles (not including their payloads) and other ''spacecraft''. (3) Commercial communications satellites are subject to Commerce licensing jurisdiction even if they include the individual munitions list systems, components, or parts identified on the United States Munitions List (USML). In all other cases, these systems, components, or parts remain on the USML, except that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware, replacement parts for the preceding items, and non-embedded, solid propellant orbit transfer orbit transfer engines (''kick motors'') are subject to Commerce licensing jurisdiction (and not controlled on the USML) when they are to be utilized for the specific commercial communications satellite launch, provided the solid propellant ''kick motor'' being utilized is not specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled on USML). Technical data (as defined in 120.10 of the International Traffic in Arms Regulations (ITAR)) and defense services (as defined in 120.9 of the ITAR) related to the systems, components, or parts on the USML are always controlled under the USML, even when the satellite itself is licensed by the Department of Commerce. (4) Military communications satellites or multi-mission satellites, including commercial communications satellites having additional non-communication mission(s) or payload(s) are under the jurisdiction of the Department of State. (5) Other ''spacecraft'' not subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121. This entry includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Exporters requesting a license from the Department of Commerce for spacecraft other than the international space station or a commercial communications satellite specified in 9A004 must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce. (6) All other spacecraft, including all other satellites not controlled under 9A004 and components, parts, accessories, attachments, associated equipment, and ground support equipment therefor are subject to the export licensing authority of the Department of State. (7) Items on the USML that are included in a commercial communications satellite to be exported under a Commerce license must be specifically listed on the Commerce license application. Such items when not included in a specific commercial communications satellite are under the jurisdiction of the Department of State. (8) Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating of the satellite to the launch vehicle and parameters for launch (e.g. orbit, timing) of the satellite, are under Commerce jurisdiction. Other technical data and all defense services and technical assistance for satellite and/or launch vehicles, including compatibility, integration, or processing data are controlled and subject to licensing by the Department of State, in accordance with 22 CFR parts 120 through 130. Approval for such technical assistance will require a Technical Assistance Agreement (TAA) and may require U.S. Government oversight. (9) Once a satellite is launched, items remaining unlaunched are required to be returned immediately to

the United States. If the satellite launch is canceled or unduly delayed, the satellite and all support equipment must be returned immediately to the United States. (10) Detailed design, development, production, or manufacturing data for all spacecraft, including satellites, regardless of which agency has jurisdiction over the export, and all systems components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for articles on the USML (including software source code and operating algorithms) are subject to licensing by the Department of State. This does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations) as well as data necessary for normal in-orbit satellite operations, to evaluate in-orbit anomalies, and to operate and maintain associated ground station equipment (except encryption hardware). (11) For the control status of products contained in ''spacecraft'' payloads, see the appropriate categories

Related Definitions: Transferring registration or operational control to any foreign person of any commercial communications satellite controlled by this entry must be authorized on a license issued by the Bureau of Export Administration. This requirement applies whether the commercial communications satellite is physically located in the United States or abroad

Items: The list of items controlled is contained in the ECCN heading

9A005 Liquid rocket propulsion systems containing any of the systems or components controlled by 9A006. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A006 Systems and components specially designed for liquid rocket propulsion systems. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A007 Solid rocket propulsion systems. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A008 Components specially designed for solid rocket propulsion systems. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A009 Hybrid rocket propulsion systems. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A010 Specially designed components, systems and structures for launch vehicles, launch vehicle propulsion systems or ''spacecraft''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A011 Ramjet, scramjet or combined cycle engines and specially designed components therefor. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
RS applies to 9A018.a and b.	RS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value

Related Controls: (a) Parachute systems designed for use in dropping military equipment, braking military aircraft, slowing spacecraft descent, or retarding weapons delivery; AND (b) Instrument flight trainers for combat simulation are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121, Category VIII.)

Related Definition: This entry controls parachute systems designed for use in dropping personnel only.

Items: a. Military trainer aircraft bearing ''T'' designations:

a.1. Using reciprocating engines; or

a.2. Turbo prop engines with less than 600 horse power (h.p.);

a.3. T–37 model jet trainer aircraft; and

a.4. Specially designed component parts.

b. Vehicles specially designed or modified for military purposes. (See § 770, Interpretation 8)

c. Pressure refuelers, pressure refueling equipment, and equipment specially designed to facilitate operations in confined areas; and ground equipment, n.e.s, developed specially for military aircraft and helicopters, and specially designed parts and accessories, n.e.s.;

d. Pressurized breathing equipment specially designed for use in military aircraft and helicopters;

e. Military parachutes and complete canopies, harnesses, and platforms and electronic release mechanisms therefor, except such types as are in normal sporting use;

f. Military instrument flight trainers, except for combat simulation; and components, parts, attachments and accessories specially designed for such equipment.

9A018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
RS applies to 9A018. a and b.	RS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value

Related Controls: (1) This entry controls parachute systems designed for use in dropping personnel only. (2) Parachute systems designed for use in dropping military equipment, braking military aircraft, slowing spacecraft descent, or retarding weapons delivery; AND Instrument flight trainers for combat simulation are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)

Related Definitions: N/A

Items: a. Military trainer aircraft bearing ''T'' designations:

a.1. Using reciprocating engines; *or*

a.2. Turbo prop engines with less than 600 horse power (h.p.);

a.3. T–37 model jet trainer aircraft; and

a.4. Specially designed component parts.

b. Ground vehicles and components therefor, specially designed or modified for military purposes. (See part 770 of the EAR, Interpretation 8)

c. Pressurized breathing equipment specially designed for use in military aircraft and helicopters;

d. Military parachutes;

e. Military instrument flight trainers, except for combat simulation; and components, parts, attachments and accessories specially designed for such equipment.

9A101 Lightweight turbojet and turbofan engines (including turbocompound engines) usable in ''missiles'', other than those controlled by 9A001, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value

Related Controls: (1) Items controlled in 9A101.b are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121). (2) Engines designed or modified for missiles (except engines for non-military unmanned air vehicles [UAVs] or remotely piloted vehicles [RPVs]), regardless of thrust or specific fuel consumption, are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.)

Related Definitions: N/A

Items: a. Engines having both of the following characteristics:

a.1. Maximum thrust value greater than 1000 N (achieved un-installed) excluding civil certified engines with a maximum thrust value greater than 8,890 N (achieved un-installed), and

a.2. Specific fuel consumption of 0.13 kg/N/hr or less (at sea level static and standard conditions); or

b. Engines designed or modified for use in ''missiles''.

9A104 Sounding rockets, capable of a range of at least 300 km. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A105 Liquid propellant rocket engines. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A106 Liquid rocket propulsion systems or components, other than those controlled by 9A006, usable in rockets with a range capability of 30 Km or greater, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment and components in number; parts and accessories in $ value

Related Controls: Items described in 9A106.a, .b, and .c are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121)

Related Definitions: N/A

Items: a. Ablative liners for thrust or combustion chambers;

b. Rocket nozzles;

c. Thrust vector control sub-systems;

Technical Note: Examples of methods of achieving thrust vector control controlled by 9A106.c includes:

1. Flexible nozzle;
2. Fluid or secondary gas injection;
3. Movable engine or nozzle;
4. Deflection of exhaust gas steam (jet vanes or probes); *or*
5. Thrust tabs.

d. Liquid and slurry propellant (including oxidizers) control systems, and specially designed components therefor, designed or modified to operate in vibration environments of more than 10 g rms between 20 Hz and 2000 Hz.

Note: The only servo valves and pumps controlled by 9A106.d, are the following:

a. Servo valves designed for flow rates of 24 liters per minute or greater, at an absolute pressure of 7 Mpa or greater, that have an actuator response time of less than 100 ms;

b. Pumps, for liquid propellants, with shaft speeds equal to or greater than 8,000 rpm or with discharge pressures equal to or greater than 7 Mpa.

9A107 Solid propellant rocket engines, usable in rockets with a range capability of 300 Km or greater, other than those controlled by 9A007, having total impulse capacity of 0.841 Mns or greater. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A108 Solid rocket propulsion components, other than those controlled by 9A008, usable in rockets with a range capability of 300 Km or greater. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A109 Hybrid rocket motors, usable in rockets with a range capability of 300 Km or greater, other than those controlled by 9A009, and specially designed components therefor. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A110 Composite structures, laminates and manufactures thereof, other than those controlled by entry 9A010, specially designed for use in ''missiles'' or the subsystems controlled by entries 9A005, 9A007, 9A105.a, 9A106 to 9A108, 9A116 or 9A119, and resin impregnated fiber prepregs and metal coated fiber preforms therefor, made either with organic matrix or metal matrix utilizing fibrous or filamentary reinforcements having a specific tensile strength greater than 7.62 $\times$ 10^4 m and a specific modulus greater than 3.18 x 10^6 m.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms

Related Controls: (1) See also 1A002, 1C010, and 1C210. (2) The only resin impregnated fiber prepregs controlled by entry 9A110 are those using resins with a glass transition temperature (T_g), after cure, exceeding 418 K (145° C) as determined by ASTM D4065 or equivalents. (3) ''Composite structures, laminates, and manufactures thereof, specially designed for use in missile systems are under the licensing authority of the Office of Defense Trade Controls, U.S. Department of State, except those specially designed for non-military unmanned air vehicles controlled in 9A120

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

9A111 Pulse jet engines, usable in ''missiles'', and specially designed components therefor. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A115 Launch support equipment, designed or modified for ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A116 Reentry vehicles, usable in ''missiles'', and equipment designed or modified therefor. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A117 Staging mechanisms, separation mechanisms, and interstages, usable in ''missiles''. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A118 Devices to regulate combustion usable in engines which are usable in rockets with a range capability greater than 300 Km or

greater, controlled by 9A011 or 9A111. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A119 Individual rocket stages, usable in rockets with a range capability greater than 300 Km or greater, other than those controlled by 9A005, 9A007, 9A009, 9A105, 9A107 and 9A109. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9A120 Non-military unmanned air vehicle systems (UAVs) and remotely piloted vehicles (RPVs) that are capable of a maximum range of at least 300 kilometers (km), regardless of payload.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9A980 Nonmilitary mobile crime science laboratories; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC

Control(s)	*Country Chart*
CC applies to entire entry	CC Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9A990 Diesel engines, n.e.s., and tractors and specially designed parts therefor, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry except 9A990.a.	AT Column 1
AT applies to 9A990.a only.	AT Column 2

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Diesel engines, n.e.s., for trucks, tractors, and automotive applications of continuous brake horsepower of 400 BHP (298 kW) or greater (performance based on SAE J1349 standard conditions of 100 Kpa and 25°)

b. Off highway wheel tractors of carriage capacity 9 mt (20,000 lbs) or more; and parts and accessories, n.e.s.

c. On-Highway tractors, with single or tandem rear axles rated for 9 mt per axel (20,000 lbs.) or greater and specially designed parts.

9A991 ''Aircraft'', n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

License Requirements

Reason for Control: AT, UN

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1
UN applies to 9A991.a	Rwanda

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:

a.1. Cargo, ''C–45 through C–118'' inclusive, and ''C–121,''

a.2. Trainers, bearing a ''T'' designation and using piston engines,

a.3. Utility, bearing a ''U'' designation and using piston engines,

a.4. Liaison, bearing an ''L'' designation, and

a.5. Observation, bearing an ''O'' designation and using piston engines;

b. Civil aircraft; *and*

Note: Specify make and model of aircraft and type of avionic equipment on aircraft.

c. Aero gas turbine engines, and specially designed parts therefor.

Note: 9A991.c does not control aero gas turbine engines that are destined for use in civil ''aircraft'' and that have been in use in bona fide civil ''aircraft'' for more than eight years.

d. Aircraft parts and components, n.e.s.

e. Pressurized aircraft breathing equipment, n.e.s.; and specially designed parts therefor, n.e.s.

9A992 Complete canopies, harnesses, and platforms and electronic release mechanisms therefor, except such types as are in normal sporting use.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The List of Items Controlled is contained in the ECCN heading

B. Test, Inspection and Production Equipment

9B001 Specially designed equipment, tooling and fixtures, as follows (see List of Items Controlled), for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies only to equipment for engines that meet the characteristics described in 9A001.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

LVS: $5000, except N/A for MT
GBS: Yes, except N/A for MT
CIV: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: For specially designed production equipment of systems, subsystems and components controlled by 9A005 to 9A009, 9A011, 9A101, 9A105 to 9A109, 9A111, and 9A116 to 9A119 usable in ''missiles'' see 9B115. See also 9B991
Related Definitions: N/A
Items: a. Directional solidification or single crystal casting equipment;

b. Ceramic cores or shells;

c. Ceramic core manufacturing equipment or tools;

d. Ceramic shell wax pattern preparation equipment.

9B002 On-line (real time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for the ''development'' of gas turbine engines, assemblies or components incorporating ''technologies'' controlled by 9E003.a.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies only to equipment for engines that meet the characteristics described in 9A001.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000, except N/A for MT
GBS: Yes, except N/A for MT
CIV: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B003 Equipment specially designed for the ''production'' or test of gas turbine brush seals designed to operate at tip speeds exceeding 335 m/s, and temperatures in excess of 773 K (500°C), and specially designed components or accessories therefor.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies only to equipment for engines that meet the characteristics described in 9A001.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000, except N/A for MT
GBS: Yes, except N/A for MT
CIV: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: See also 9B115
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B004 Tools, dies or fixtures for the solid state joining of ''superalloy'', titanium or intermetallic airfoil-to-disk combinations described in 9E003.a.3 or 9E003.a.6 for gas turbines.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies only to equipment for engines that meet the characteristics described in 9A001.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000, except N/A for MT
GBS: Yes, except N/A for MT
CIV: Yes, except N/A for MT

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B005 On-line (real time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for use with any of the following wind tunnels or devices (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 9B105
Related Definitions: N/A
Items: a. Wind tunnels designed for speeds of Mach 1.2 or more, except those specially designed for educational purposes and having a test section size (measured laterally) of less than 250 mm;

Technical Note: Test section size in 9B005.a means the diameter of the circle, or the side of the square, or the longest side of the rectangle, at the largest test section location.

b. Devices for simulating flow-environments at speeds exceeding Mach 5, including hot-shot tunnels, plasma arc tunnels, shock tubes, shock tunnels, gas tunnels and light gas guns; *or*

c. Wind tunnels or devices, other than two-dimensional sections, capable of simulating Reynolds number flows exceeding 25×10^6.

9B006 Acoustic vibration test equipment capable of producing sound pressure levels of 160 Db or more (referenced to 20 uPa) with a rated output of 4 kW or more at a test cell temperature exceeding 1,273 K (1,000 °C), and specially designed quartz heaters therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $3000
GBS: Yes
CIV: Yes

List of Items Controlled

Unit: Number
Related Controls: See also 9B106. Note that some items in 9B006 may also be controlled under 9B106
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B007 Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GSB N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B008 Transducers specially designed for the direct measurement of the wall skin friction of the test flow with a stagnation temperature exceeding 833 K (560 °C).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GSB N/A
CIV: N/A

List of Items Controlled

Unit: Number
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B009 Tooling specially designed for producing turbine engine powder metallurgy rotor components capable of operating at stress levels of 60% of ultimate tensile strength (UTS) or more and metal temperatures of 873 K (600 °C) or more.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

LVS: $5000
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B105 Wind tunnels for speeds of Mach 0.9 or more, usable for ''missiles'' and their subsystems.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 9B005
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B106 Environmental chambers and anechoic chambers, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Environmental chambers capable of simulating the following flight conditions:

a.1. Altitudes of 15,000 m *or* greater; or

a.2. Temperature of at least 223 K (−50° C) to 398 K (+ 125° C) and vibration environments of 10 g rms or greater between 20 Hz and 2,000 Hz and imparting forces of 5 Kn or greater.

b. Anechoic chambers capable of simulating the following flight conditions:

b.1. Altitudes of 15,000 m or greater; *or*

b.2. Temperature of at least 223 K (50° C) to 398 K (+ 125° C) and acoustic environments at an overall sound pressure level of 140 Db or greater (referenced to 20 microPa) or with a rated power output of 4 kW or greater.

9B115 Specially designed ''production equipment'' for the systems, sub-systems and components controlled by 9A005 to 9A009, 9A011, 9A101, 9A105 to 9A109, 9A111, 9A116 to 9A119. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9B116 Specially designed ''production facilities'' for the systems, sub-systems, and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119. (These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9B117 Test benches and test stands for solid or liquid propellant rockets or rocket motors, having either of the following characteristics (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: See also 9B990
Related Definitions: N/A
Items: a. The capacity to handle more than 90 Kn of thrust; *or*

b. Capable of simultaneously measuring the three axial thrust components.

9B990 Vibration test equipment and specially designed parts and components, n.e.s.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9B991 Specially designed equipment, tooling or fixtures, not controlled by 9B001, as described in the List of Items Controlled, for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. Automated equipment using non-mechanical methods for measuring airfoil wall thickness;

b. Tooling, fixtures or measuring equipment for the ''laser'', water jet or ECM/EDM hole drilling processes controlled by 9E003.c;

c. Ceramic core leaching equipment;

d. Ceramic shell burn out or firing equipment.

C. Materials [Reserved]

D. Software

9D001 ''Software'' required for the ''development'' of equipment or ''technology'' controlled by 9A (except 9A018, 9A990 or 9A991), 9B (except 9B990 or 9B991) or 9E003.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to ''software'' for items controlled by 9A001 to 9A003, 9B001 to 9B009, 9E003.	NS Column 1
MT applies to ''software'' for equipment controlled by 9A001, 9A101, 9A106, 9A110, 9A120, 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B105, 9B106, 9B116, and 9B117 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) See also 9D101. (2) ''Software'' ''required'' for the ''development'' of items controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (3) ''Software'' ''required'' for the ''development'' of equipment or ''technology'' subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls is also subject to the same licensing jurisdiction. (See 22 CFR part 121.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9D002 ''Software'' required for the ''production'' of equipment controlled by 9A (except 9A018, 9A990 or 9A991) or 9B (except 9B990 or 9B991).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to ''software'' for equipment controlled by 9A001 to 9A003 or 9B001 to 9B009.	NS Column 1
MT applies to ''software'' for equipment controlled by 9A001, 9A101, 9A106, 9A110, 9A120, 9B001, 9B002, 9B003, 9B004, 9B005, 9B007 9B105, 9B106, 9B116, and 9B117 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) ''Software'' ''required'' for the ''production'' of items controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (2) ''Software'' ''required'' for the ''production'' of equipment or ''technology'' subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls is also subject to the same licensing jurisdiction. (See 22 CFR part 121.)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9D003 ''Software'' required for the ''use'' of full authority digital electronic engine controls (FADEC) for propulsion systems controlled by 9A (except 9A018, 9A990 or 9A991) or equipment controlled by 9B (except 9B990 or 9B991), as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to ''software'' for ''use'' of FADEC for equipment controlled by 9A001 to 9A003.	NS Column 1
MT applies to ''software'' required for the ''use'' of FADEC for gas turbine engines controlled by 9A101, 9A106, or 9A110.	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: Yes, except N/A for MT
TSR: Yes, except N/A for MT

List of Items Controlled

Unit: $ value
Related Controls: (1) See also 9D103. (2) ''Software'' ''required'' for the ''use'' of items controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (3) ''Software'' ''required'' for the ''use'' of equipment or ''technology'' subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls is also subject to the same licensing jurisdiction. (See 22 CFR part 121.)
Related Definitions: N/A
Items: a. ''Software'' in digital electronic controls for propulsion systems, aerospace test facilities or air breathing aero-engine test facilities;
b. Fault-tolerant ''software'' used in ''FADEC'' systems for propulsion systems and associated test facilities.

9D004 Other ''software'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: a. 2D or 3D viscous ''software'' validated with wind tunnel or flight test data required for detailed engine flow modelling;
b. ''Software'' for testing aero gas turbine engines, assemblies or components, specially designed to collect, reduce and analyze data in real time, and capable of feedback control, including the dynamic adjustment of test articles or test conditions, as the test is in progress;
c. ''Software'' specially designed to control directional solidification or single crystal casting;
d. ''Software'' in ''source code'', ''object code'' or machine code required for the ''use'' of active compensating systems for rotor blade tip clearance control.

Note: 9D004.d does not control ''software'' embedded in uncontrolled equipment or required for maintenance activities associated with the calibration or repair or updates to the active compensating clearance control system.

9D018 ''Software'' for the ''use'' of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
RS applies to 9A018.a and .b.	RS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: Yes for Australia, Japan, New Zealand, and NATO only

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9D101 ''Software'' specially designed for the ''use'' of goods controlled by 9B105, 9B106, 9B116 or 9B117.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9D102 ''Software'' specially designed for the ''use'' of items controlled by 9A101, 9A106, 9A110, and 9A120.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: ''Software'' for items controlled by 9A115 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9D103 ''Software'' specially designed for modelling, simulation or design integration of ''missiles'', or the subsystems controlled by 9A005, 9A007, 9A105.a, 9A106, 9A108, 9A116 or 9A119. (This entry is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. See 22 CFR part 121.)

9D990 ''Software'', n.e.s., for the ''development'' or ''production'' of equipment controlled by 9A990 or 9B990.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to ''software'' for equipment under 9A990 except 9A990.a.	AT Column 1

Control(s)	*Country Chart*
AT applies to ''software'' for equipment under 9A990.a only.	AT Column 2

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9D991 ''Software'', for the ''development'' or ''production'' of equipment controlled by 9A991 or 9B991.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

E. Technology

Note: ''Development'' or ''production'' ''technology'' controlled by 9E001 to 9E003 for gas turbine engines remains controlled when used as ''use'' ''technology'' for repair, rebuild and overhaul. Excluded from control are: technical data, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units, including replacement of whole engines or engine modules.

9E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment or ''software'' controlled by 9A001.c, 9A004 to 9A011, 9B (except 9B990 or 9B991), or 9D (except 9D990 or 9D991).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to ''technology'' for items controlled by 9A001.c, 9B001 to 9B009, 9D001 to 9D004.	NS Column 1
MT applies to ''technology'' for items controlled by 9B001, 9B002, 9B003, 9B004 9B005, 9B007, 9B105, 9B106, 9B116, 9B117, 9D001, 9D002, 9D003, and 9D004 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 9E101 and 1E002.f (for controls on ''technology'' for the repair of controlled structures, laminates or materials). (2) The ''technology'' required for the ''development'' of equipment controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (3) ''Technology'', required for the ''development'' of equipment or ''software'' subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls, is also subject to the same licensing jurisdiction. (See 22 CFR part 121)
Related Definitions: ''Development'' or ''production'' ''technology'' controlled by 9E for gas turbine engines remains controlled when used as ''use'' ''technology'' for repair, rebuild and overhaul. Excluded from control are: technology, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units, including replacement of whole engines or engine modules
Items: The list of items controlled is contained in the ECCN heading

9E002 ''Technology'' according to the General Technology Note for the ''production'' of equipment controlled by 9A001.c, 9A004 to 9A011 or 9B (except 9B990 or 9B991).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
MT applies to ''technology'' for equipment controlled by 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B105, 9B106, 9B116, and 9B117 for MT reasons.	MT Column 1
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) See also 9E102. (2) The ''technology'' required for the ''development'' of equipment controlled by 9A004 is subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls. (See 22 CFR part 121.) (3) ''Technology'', required for the ''development'' of equipment or ''software'' subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls, is also subject to the same licensing jurisdiction. (See 22 CFR part 121)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9E003 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SI, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
SI applies to 9E003.a.1 through a.12 and f. See § 742.14 of the EAR for additional information.	
AT applies to entire entry	AT Column 1

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) Hot section ''technology'' specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, is subject to the licensing authority of the U.S. Department of State. (2) ''Technology'' is subject to the EAR when actually applied to a commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license from the Department Commerce in respect to a specific export, or in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction determination from the Department of State.
Related Definitions: N/A
Items: a. ''Technology'' ''required'' for the ''development'', ''production'', or overhaul of the following commercial aircraft engines, components or systems:

a.1. Gas turbine blades, vanes or tip shrouds made from directionally solidified (DS) or single crystal (SC) alloys having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000° C) at a stress of 200 MPa, based on the average property values;

a.2. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1,370° C) or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

a.3. Components manufactured from organic ''composite'' materials designed to operate above 588 K (315° C), or from metal ''matrix'' ''composite'', ceramic ''matrix'', intermetallic or intermetallic reinforced materials controlled by 1A002 or 1C007;

a.4. Uncooled turbine blades, vanes, tip-shrouds or other components designed to

operate at gas path temperatures of 1,323 K (1,050° C) or more;

a.5. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E003.a.1, exposed to gas path temperatures of 1,643 K (1,370°C) or more;

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. Gas turbine engine components using ''diffusion bonding'' ''technology'' controlled by 2E003.b;

a.8. Damage tolerant gas turbine engine rotating components using powder metallurgy materials controlled by 1C002.b;

a.9. Full authority digital electronic engine control (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

a.10. Adjustable flow path geometry and associated control systems for:

a.10.a. Gas generator turbines;

a.10.b. Fan or power turbines;

a.10.c. Propelling nozzles;

Notes: 1. Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

2. 9E003.a.10 does not control ''development'' or ''production'' ''technology'' for adjustable flow path geometry for reverse thrust.

a.11. Rotor blade tip clearance control systems employing active compensating casing ''technology'' limited to a design and development data base; or

a.12 Gas bearing for gas turbine engine rotor assemblies;

a.13. Wide chord hollow fan blades without part-span support;

b. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system; or

b.2. ''Composite'' propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. ''Technology'' ''required'' for the ''development'' or ''production'' of gas turbine engine components using ''laser'', water jet, ECM or EDM hole drilling processes to produce holes having any of the following sets of characteristics:

c.1. All of the following:

c.1.a. Depths more than four times their diameter;

c.1.b. Diameters less than 0.76 mm; and

c.1.c. Incidence angles equal to or less than 25°; or

c.2. All of the following:

c.2.a. Depths more than five times their diameter;

c.2.b. Diameters less than 0.4 mm; and

c.2.c. Incidence angles of more than 25°;

Technical Note: For the purposes of 9E003.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. ''Technology'' ''required'' for the ''development'' or ''production'' of helicopter power transfer systems or tilt rotor or tilt wing ''aircraft'' power transfer systems:

d.1. Capable of loss-of-lubrication operation for 30 minutes or more; or

d.2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg;

e.1. ''Technology'' for the ''development'' or ''production'' of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1.a. A box volume of 1.2 m^3 or less;

e.1.b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and

e.1.c. A power density of more than 700 kW/m^3 of box volume;

Technical Note: Box volume: the product of three perpendicular dimensions measured in the following way:

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing;

Height: The largest of the following:

a. The dimension of the crankshaft center-line to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

e.2. ''Technology'' ''required'' for the ''production'' of specially designed components, as follows, for high output diesel engines:

e.2.a. ''Technology'' ''required'' for the ''production'' of engine systems having all of the following components employing ceramics materials controlled by 1C007:

e.2.a.1. Cylinder liners;

e.2.a.2. Pistons;

e.2.a.3. Cylinder heads; and

e.2.a.4. One or more other components (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);

e.2.b. ''Technology'' ''required'' for the ''production'' of turbocharger systems, with single-stage compressors having all of the following:

e.2.b.1. Operating at pressure ratios of 4:1 or higher;

e.2.b.2. A mass flow in the range from 30 to 130 kg per minute; and

e.2.b.3. Variable flow area capability within the compressor or turbine sections;

e.2.c. ''Technology'' ''required'' for the ''production'' of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8°C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8°C)), having both of the following:

e.2.c.1. Injection amount in excess of 230 mm^3 per injection per cylinder; and

e.2.c.2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

e.3. ''Technology'' ''required'' for the ''development'' or ''production'' of high output diesel engines for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450°C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

f. ''Technology'' not otherwise controlled in 9E003.a.1 through a.12 and currently used in the ''development'', ''production'', or overhaul of hot section parts and components of civil derivatives of military engines controlled on the U.S. Munitions List.

9E018 ''Technology'' for the ''development'', ''production'', or ''use'' of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country Chart*
NS applies to entire entry	NS Column 1
RS applies to 9A018.a and .b.	RS Column 2
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A

TSR: Yes for Australia, Japan, New Zealand, and NATO only

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

9E101 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of goods controlled by 9A101, 9A104 to 9A111 or 9A115 to 9A120.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: ''Technology'' controlled by 9E101 for items in 9A101.b, 9A104, 9A105, to 9A109, 9A110 that are specially designed for use in missile systems and subsystems, 9A111, 9A115, and 9A116 to 9A120 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121)

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading

9E102 ''Technology'' according to the General Technology Note for the ''use'' of goods controlled by 9A004 to 9A011, 9A101, 9A104 to 9A111, 9A115 to 9A120, 9B105, 9B106, 9B115, 9B116, 9B117, 9D101 or 9D103.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country Chart*
MT applies to entire entry	MT Column 1
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A
Related Controls: (1) For the purpose of this entry, ''use'' ''technology'' is limited to items controlled for MT reasons. (2) ''Technology'' controlled by 9E102 for items subject to the export licensing jurisdiction of the Department of State in 9A004 to 9A011, 9A101.b, 9A104 to 9A109, 9A110 that are specially designed for use in missile systems and subsystems, 9A111, 9A115, 9A116 to 9A120, and 9D103 are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121)
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9E990 ''Technology'', n.e.s., for the ''development'' or ''production'' or ''use'' of equipment controlled by 9A990 or 9B990.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to ''technology'' for equipment under 9A990 and 9B990 except 9A990.a.	AT Column 1
AT applies to ''technology'' for equipment under 9A990.a only.	AT Column 2

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

9E991 ''Technology'', for the ''development'', ''production'' or ''use'' of equipment controlled by 9A991 or 9B991.

License Requirements

Reason for Control: AT

Control(s)	*Country Chart*
AT applies to entire entry	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading

EAR99 Items subject to the EAR that are not elsewhere specified in this CCL Category or in any other category in the CCL are designated by the number EAR99.

Dated: December 23, 1997.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 98–1 Filed 1–14–98; 8:45 am]

BILLING CODE 3510–33–P

federal register

Thursday
January 15, 1998

Part III

Department of Commerce

International Trade Administration

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, etc.; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–054, A–588–604]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Administrative Reviews.

SUMMARY: On September 9, 1997, the Department of Commerce (the Department) published the preliminary results of the 1995–96 administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054) (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews,* 62 FR 47452 (September 9, 1997) (*TRB Prelim*)). The review of the A–588–054 finding covers two manufacturers/exporters and two resellers/exporters of the subject merchandise to the United States during the period October 1, 1995, through September 30, 1996. The review of the A–588–604 order covers three manufacturers/exporters, two resellers/exporters, and the period October 1, 1995, through September 30, 1996. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received we have changed the results from those presented in our preliminary results of review.

EFFECTIVE DATE: January 15, 1998.

FOR FURTHER INFORMATION CONTACT: Charles Ranado, Stephanie Arthur, or Valerie Owenby, Office of AD/CVD Enforcement III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3518, 6312, or 0172, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are in reference to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations are to the Department's regulations, 19 CFR part 353 (1997).

Background

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order on TRBs from Japan (52 FR 37352). On October 1, 1996 (61 FR 51529), the Department published the notice of ''Opportunity to Request an Administrative Review'' for both TRB cases. The petitioner, the Timken Company (Timken), and one respondent requested administrative reviews. We initiated the A–588–054 and A–588–604 administrative reviews for the period October 1, 1995, through September 30, 1996, on November 15, 1996 (61 FR 58513). On September 9, 1997, we published in the **Federal Register** the preliminary results of the 1995–96 administrative reviews of the antidumping duty order and finding on TRBs from Japan (*see TRB Prelim* at 47542). We held a hearing for the 1995–96 administrative reviews of both the A–588–054 and A–588–604 TRBs cases on October 30, 1997. The Department has now completed these reviews in accordance with section 751 of the Act, as amended.

Scope of the Review

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under the Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30. Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of this order, except for those manufactured by NTN Corporation (NTN). This merchandise is currently classifiable under HTS item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8484.30.80, 8483.90.20, 8483.90.30, and 8483.90.60. These HTS item numbers and those for the A–588–054 finding are provided for convenience and Customs purposes. The written description remains dispositive.

The A–588–054 reviews cover TRB sales by two TRB manufacturers/exporters (Koyo Seiko Ltd. (Koyo) and NSK Ltd. (NSK)), and two resellers/exporters (Fuji Heavy Industries (Fuji) and MC International (MC)). The reviews of the A–588–604 case cover TRB sales by three manufacturers/exporters (Koyo, NSK and NTN Corporation (NTN)), and two resellers/exporters (Fuji and MC). Because Fuji and MC had no shipments in the A–588–604 review, for the reasons explained in our notice of preliminary results, we have not assigned a rate to these firms for these final results (*see TRB Prelim* at 47453). The period of review (POR) for both cases is October 1, 1995, through September 30, 1996.

Duty Absorption

On December 11, 1996, Timken requested that the Department determine, with respect to all respondents, whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer. The Department's interim regulations do not address this provision of the Act.

For transition orders as defined in section 751(c)(6)(C) of the Act (*i.e.*, orders in effect as of January 1, 1995), section 351.213(j)(2) of the Department's new antidumping regulations provide that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. *See* 62 FR 27394 (May 19, 1997). Because the finding and order on TRBs have been in effect since 1976 and 1987, respectively, they are transition orders in accordance with section 751(c)(6)(C) of the Act. The preamble to the new antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year (62 FR 27317, May 19, 1997). This approach

ensures that interested parties will have the opportunity to request a duty-absorption determination prior to the time for sunset review of the order under section 751(c) of the Act on entries for which the second and fourth years following an order have already passed. Since these reviews were initiated in 1996, and a request was made for a determination, we are making duty-absorption determinations as part of these administrative reviews.

As indicated above, the statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In these cases, NTN, Koyo, NSK, and Fuji sold through importers that are affiliated within the meaning of section 751(a)(4) of the Act. We have determined that duty absorption has occurred with respect to the following firms and with respect to the following percentages of sales made through their U.S. affiliates:

Manufacturer/exporter/reseller	Percentage of U.S. affiliates' sales with dumping margins
For the A–588–054 Case:	
Koyo Seiko	12.99
Fuji	4.54
NSK	13.30
For the A–588–604 Case:	
Koyo Seiko	98.10
Fuji [1]	
NSK	51.78
NTN	66.36

[1] No shipments or sales subject to this review.

In the case of Koyo, the firm did not respond to our request for further-manufacturing information and we determined the dumping margins for these further-manufactured sales on the basis of adverse facts available. Lacking other information, we find duty absorption on all such sales of further-processed TRBs (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31568* (June 10, 1997) (where we found duty absorption with respect to all sales for which respondent provided no data in response to the Department's questionnaire)).

With respect to other respondents with affiliated importers (NSK, NTN, and Fuji), for which we did not apply adverse facts available, we must presume that the duties will be absorbed for those sales which were dumped. Where Koyo's margins were not determined on the basis of adverse facts available (*i.e.*, for non-further-manufactured sales), we must presume that duties will be absorbed for those sales which were dumped. Our duty-absorption presumptions can be rebutted with evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty. After publication of our preliminary results, we gave interested parties the opportunity to submit evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duties. However, we received no such evidence. Under these circumstances, we find that antidumping duties have been absorbed by Koyo, NTN, NSK, and Fuji on the percentages of U.S. sales indicated. Specific arguments relating to duty absorption are discussed in the ''Miscellaneous'' section below.

Analysis of Comments Received

We received case briefs from Koyo, NSK, NTN, and Timken on October 16, 1997. We received rebuttal briefs from the same four parties, as well as from Fuji, on October 23, 1997. The comments which were contained in all of the case and rebuttal briefs we received are addressed below in the following order:

1. Facts Available/Further Manufacturing
2. Adjustments to Normal Value
3. Adjustments to United States Price
4. Cost of Production and Constructed Value
5. Miscellaneous Comments Related to Duty Absorption, Level of Trade, the Arm's-Length Test, and Sample Sales
6. Clerical Errors

1. Facts Available/Further Manufacturing

Comment 1: Koyo argues that the Department's application of adverse facts available with respect to its sales of A–588–604 further-manufactured TRBs was inappropriate and contrary to law for the following reasons. First, Koyo states, the Department apparently decided to require further-manufacturing data because there was an insufficient quantity of sales of imported finished A–588–604 TRBs to serve as a surrogate in accordance with section 773(e) (1) and (e)(2) of the Act, the special rule provision for further-processed merchandise. Koyo asserts that the Department presumably reached its conclusion by comparing the entered and sales values of imported finished over 4″ TRBs to the entered and sales values of over 4″ TRB components which were further manufactured. However, Koyo contends, the Department's comparison of over 4″ finished TRBs to over 4″ further-manufactured TRBs was flawed because the division of products subject to the TRB orders does not reflect commercial reality, but rather arose from the manner in which Timken defined merchandise covered by the petitions in the A–588–054 and A–588–604 TRB cases. Koyo further argues, in support of its assertions that the division between the orders is asymmetrical, that the over 4″ A–588–604 order covers components of TRBs which are typically further processed into under 4″ bearings.

Second, Koyo contends that the statute does not grant the Department discretion to decide whether or not to invoke section 772(e)(1) and (e)(2) of the Act. Rather, Koyo argues, the Department is required to apply the special rule provided the respondent has demonstrated that the value added in the United States is likely to substantially exceed the value of the imported merchandise. Koyo contends that, given that the Department determined in its preliminary results that Koyo satisfied the ''substantially exceeds'' requirement, the Department was compelled by the statute to apply the special rule provision and determine the constructed export price (CEP) for A–588–604 further-manufactured TRB sales using the price of either identical or other subject merchandise or, if it determined that there was not a sufficient quantity of sales using these two proxies, any other ''reasonable'' basis. Koyo argues that the Department cannot, as it did in its preliminary results, simply reject the special rule in its entirety simply because it determines there is an insufficient quantity of sales of identical or other subject merchandise. Rather, contends Koyo, the Department must calculate CEP using ''any other reasonable basis,'' as directed by the statute.

Koyo proposes that, in light of the similarities of merchandise subject to the A–588–054 and A–588–604 orders, instead of evaluating whether the margins of finished over 4″ A–588–604 bearings were an appropriate proxy for further-manufactured merchandise, the Department should have relied on the margins of finished under 4″ A–588–054 TRBs as a surrogate for those over 4″ components which were further processed into under 4″ TRBs, and the margins of imported finished over 4″ A–588–604 TRBs as a surrogate for those over 4″ components which were further manufactured into over 4″ TRBs. In fact, Koyo argues, not only is such an approach another reasonable basis, but it adheres to the statutory preference for relying on the price of ''other'' or

''identical'' subject merchandise. Koyo maintains that while the Department may be hesitant to use a margin from a different order or finding (A–588–054) and apply it to further-manufactured products subject to a different order (A–588–604), its concerns are not legally relevant for the special rule provision. Koyo contends that the statute contains no language suggesting that ''crossing orders'' would constitute an unreasonable basis for comparison, and that the Department's refusal to look beyond the confines of the over 4″ order is not consistent with the statue. Koyo also adds that the Department's failure to acknowledge the existence of the under 4″ finding cedes too much control to petitioners who might be encouraged to write petitions that create anomalous outcomes, as is the case, Koyo asserts, with respect to the division between the two TRB orders.

Furthermore, Koyo argues, using the calculated margins for under 4″ finished TRBs as a proxy for that merchandise subject to the A–588–604 order which was further manufactured is appropriate because of the physical similarities of the merchandise. It does not matter, argues Koyo, that each of these categories of merchandise is not subject to the same order because, as indicated above, the asymmetric division of the orders arose from historical happenstance. Koyo also asserts that, if the Department were to adopt such an approach, there would be a sufficient quantity of U.S. sales of imported finished A–588–054 TRBs to serve as a proxy for further-manufactured A–588–604 TRBs.

Koyo also suggests that, as an alternative, the Department can compare the value of finished bearings subject to both the A–588–054 finding and A–588–604 order to the value of further-manufactured bearings subject to the A–588–604 order. This method would guarantee, Koyo argues, a sufficient quantity of sales to serve as a proxy and would be reasonable and appropriate. Having then determined a sufficient quantity test, Koyo suggests, the Department should weight-average the margins calculated for A–588–054 and A–588–604 finished bearings and apply the result to the A–588–604 further-processed components.

Like Koyo, NSK argues that the Department must, in accordance with section 772(e) of the Act, apply the special rule for further-processed merchandise once it has determined that the value added in the United States is likely to substantially exceed the value of the imported product. NSK maintains that this is the only statutory requirement for the application of the special rule provision, and once this requirement has been met, the Department is mandated by the statue to apply the special rule for further-manufactured merchandise. NSK contends that the determination of whether such sales are appropriate or whether there is a sufficient quantity to provide a reasonable basis for comparison relates only to the two proxies for calculating CEP set forth in section 772(e)(1) and (e)(2) of the statute. NSK further argues that if the Department determines that neither of these two proxies can be used, it may calculate CEP on ''any other reasonable basis.'' However, NSK argues, once it finds that certain merchandise qualifies for the special rule under the condition set forth above, the Department cannot calculate CEP using the section 772(d)(2) standard methodology. Specifically, NSK maintains that reverting to this methodology is contrary to the language of the statute and that this method does not constitute another ''reasonable basis'' by which to calculate CEP because section 772(d)(2) of the Act provides that CEP be reduced by ''the cost of any further manufacture or assembly * * * except in circumstances described in subsection (e) of this section.'' Therefore, NSK asserts, the Department cannot reduce CEP by the cost of any further manufacturing within the realm of section 772(e). NSK argues that the Statement of Administrative Action (SAA) at 826 supports its assertions that the Department cannot apply the standard 772(d)(2) methodology once the condition for the special rule has been satisfied because it purposefully omits the standard methodology as an alternative to the two surrogates identified in section 772(e)(1) and (e)(2). In addition, NSK claims, the SAA makes every attempt to keep section 772(e) simple and a resort to the standard methodology is contrary to the intent of the special rule to reduce the burden of a further-manufacturing analysis for the Department. Finally, NSK argues that the Department's interpretation of section 772(e) is contrary to the objective of establishing a ''bright-line standard'' which allows the Department to inform respondents early during a review proceeding whether or not they must supply detailed further-manufacturing information. Because the Department reversed its decision regarding Koyo's further manufacturing months after it initially concluded this data would not be required, the Department, NSK argues, has defeated its stated objective of informing respondents if it will require further-processing data early in the review.

Timken responds that the Department's application of adverse facts available with respect to Koyo's further-manufactured merchandise was supported by the record and in accordance with the law. Timken argues that the statute grants the Department broad discretion in the implementation of the special rule, and asserts that the Department's actions were consistent with the statute when it determined that Koyo's A–588–604 non-further-manufactured TRBs were an inappropriate proxy for Koyo's A–588–604 further-manufactured merchandise. Timken argues that the Department's use of the standard section 772(d)(2) methodology to calculate CEP for Koyo's further-manufactured sales constituted another ''reasonable basis,'' and that the information on the record did not provide any other ''reasonable basis'' for determining margins for further-manufactured sales.

Department's Position: We disagree with respondents. The statute at section 772(e) provides that:

> Where the subject merchandise is imported by a person affiliated with the exporter or producer, and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the administering authority shall determine the constructed export price for such merchandise by using one of the following prices if there is a sufficient quantity of sales to provide a reasonable basis for comparison and the administering authority determines that the use of such sales is appropriate:
>
> (1) The price of identical subject merchandise sold by the exporter or producer to an unaffiliated person;
>
> (2) The price of other subject merchandise sold by the exporter or producer to an unaffiliated person.
>
> If there is not a sufficient quantity of sales to provide a reasonable basis for comparison under paragraph (1) or (2), or the administering authority determines that neither of the prices described in such paragraphs is appropriate, then the constructed export price may be determined on any other reasonable basis.

Koyo asserts that the Department, having determined that the value added in the United States is likely to substantially exceed the value of the imported merchandise, is required to apply the special rule provision of the statute, and argues that the use of the word ''shall'' in the provision clearly demonstrates that the Department does not have discretion as to when to invoke the special rule.

Koyo and NSK incorrectly assume that we rejected the provision entirely. In addition, Koyo incorrectly argues that we imposed an additional qualification

for the application of the special rule; namely, that we required Koyo not only to demonstrate that the value added to its further-manufactured subject merchandise substantially exceeded the value of the subject merchandise as entered but also to demonstrate that there was a sufficient quantity of its non-further-manufactured sales to serve as a proxy for the calculation of CEP for its further-manufactured merchandise. To the contrary, our decision to request further-processing data from Koyo was made within the confines of and according to the language of the special rule. The SAA provides that the special rule provision will come into play when it is estimated that the value added in the United States is substantially more than half of the price charged to the first unaffiliated purchaser of the finished merchandise (*see* SAA at 825–826).

After a determination that the value added is likely to substantially exceed the value of the imported components, the statute specifies that the use of the options identified in section 772 (e)(1) and (e)(2) is contingent upon the existence of a sufficient quantity of sales to provide a reasonable basis for comparison *and* that the use of such sales is appropriate. In other words, even if the quantity of the proxy sales is sufficient, we will reject their use unless we determine that using them is appropriate.

In determining whether the use of either of the two proxy methods is appropriate, the Department looks to the underlying purpose of the special rule, which is to avoid imposing an unnecessary burden on the Department, while still ensuring reasonably accurate results (*see* SAA at 825–826). As part of this determination, we consider such factors as whether their use may lead to inaccurate results. We believe that the greater the proportion of further-manufactured to non-further-manufactured merchandise, the greater the possibility of inaccurate results. If there is a concern about accuracy, we must consider whether an alternative method, especially the standard methodology, would be unduly burdensome. The burden of applying the standard methodology to calculate the CEP for further-manufactured merchandise may vary from case to case depending on factors such as the nature of the further-manufacturing process and the finished products. The accuracy gained by applying the standard methodology may also vary significantly from case to case, depending upon such factors as the amount of value added in the United States and the proportion of U.S. sales which undergo further processing. Where the burden of performing a further-manufacturing analysis is high, we may determine that the potential gains in accuracy do not outweigh the burden of applying the standard section 772(d)(2) methodology and that the use of one of the statutory alternatives set forth in 772 (e)(1) and (e)(2) is appropriate. However, if the burden is relatively low and the proportion of further-manufactured sales is sufficiently high to raise concerns about accuracy, we may consider use of the statutory alternatives inappropriate.

In the instant case, the record does not lead us to conclude that the use of either of the two alternative methods described in section 772 (e)(1) and (e)(2) with respect to Koyo's further-manufactured merchandise is appropriate. The record indicates that Koyo's U.S. sales of further-manufactured subject merchandise represented a large portion of its total U.S. sales of subject merchandise during the POR. Therefore, the use of either of the proxy methods in this case—where the proportion of further-manufactured sales is relatively high—would have a relatively high potential for inaccuracy. In addition, as noted in our preliminary results, the finished merchandise sold by Koyo to the first unrelated U.S. customer was still in the same class or kind as merchandise within the scope of the TRB order and finding (*i.e.*, imported TRB components were processed into TRBs). As a result, the calculation of the precise amount of cost of further manufacturing would not be nearly as burdensome as it would be for Fuji, another respondent who imported TRBs for incorporation in automobiles. Furthermore, in prior reviews we have calculated margins for Koyo's further-processed sales and have extensive experience with and knowledge of Koyo's further-manufactured sales and the calculation of the cost of further manufacturing in the United States with respect to these sales. Therefore, in this case we have determined that for Koyo the relatively small reduction of burden on the Department that would result from resorting to either of the two statutory proxy methods under the special rule is outweighed by the potential distortion and losses in accuracy as a consequence of their use. Accordingly, we have rejected the use of either of the two proxies as inappropriate and have sought to calculate the CEP for Koyo's further manufactured sales using another reasonable basis.

This determination, however, does not indicate that, because we found the alternative methods in section 772 (e)(1) and (e)(2) to be inappropriate, we have abandoned the special rule, as Koyo and NSK suggest. For all respondents with further-manufactured merchandise, we first evaluated whether the value added in the United States was likely to substantially exceed the value of the imported components. We determined that Fuji, NTN, and Koyo met the ''substantially exceeds'' qualification for implementation of the special rule. However, while we have determined that the use of either of the two proxy methods is appropriate for Fuji and NTN, we have found that for Koyo, resorting to either of the alternatives set forth in the special rule provision is not appropriate.

If we determine that the use of one of the two proxies set forth in section 772 (e)(1) and (e)(2) is inappropriate, as explicitly directed by the statute, we may use any other reasonable basis to calculate CEP for further-manufactured sales. Here the statute again grants us considerable latitude in determining precisely what constitutes ''any other reasonable basis.'' The SAA at 825 indicates that one possible method is basing the CEP of the further-processed merchandise on the transfer price from the exporter or producer to the affiliated importer. In general, however, if the two statutory alternatives cannot be used, we should identify and use a method which not only satisfies the overall purpose of the provision—the reduction of the burden on the Department—but also furthers the goal of accuracy. A reasonable alternative, then, may be our standard further-processing analysis if its use is not unduly burdensome and if it sufficiently reduces the potential for inaccuracy or distortion.

As explained in detail above, the record in this case indicates that the use of the standard methodology for calculating CEP for Koyo's further-manufactured sales is a reasonable method. Therefore, we disagree with NSK that the standard methodology cannot serve as another reasonable basis. Not only would its exclusion as another reasonable basis effectively eliminate the Department's ability to use an accurate and valid alternative in situations such as this, but the plain language of the provision clearly does not preclude the standard methodology as a viable alternative. In addition, we disagree with NSK that, because the SAA does not specifically reference the standard methodology as another reasonable basis, we are unable to use it as such. In fact, the SAA does not specifically exclude the standard methodology as an option. In addition, both the statute and the SAA clearly grant the Department discretion with respect to the determination of what

constitutes another reasonable basis. While NSK and Koyo correctly point out that the intent underlying Congress' enactment of the special rule was the reduction of the burden on the Department, both respondents overlook the fact that the Department, nevertheless, has an overriding mandate to calculate accurate dumping margins (*see Bowe-Passat* v. *United States,* 17 CIT 335, 340 (1993) (*Bowe-Passat*)). While the special rule provides us with a method to eliminate the burden of calculating the cost of further processing, its intent was not to elevate the goal of burden reduction over the goal of accuracy. Finally, we note that while NSK argues against the use of the standard methodology as another reasonable basis, it provides no alternative for calculating CEP for Koyo's further-manufactured merchandise, nor does it point to any record evidence establishing that the standard methodology would be, in this instant case, inappropriate for calculating CEP for Koyo's further-manufactured merchandise.

As discussed in the summary above, Koyo does propose, however, an alternative for calculating the CEP of its further-manufactured A–588–604 TRB merchandise, which it believes constitutes ''another reasonable basis.'' Koyo proposes that the Department, instead of evaluating whether the margins for finished over 4″ A–588–604 bearings were an appropriate surrogate for A–588–604 further-manufactured merchandise, could have used the margins it calculated for under 4″ A–588–054 bearings as a proxy for that A–588–604 merchandise which was further processed into under 4″ bearings, and the margins calculated for over 4″ bearings as a proxy for that A–588–604 merchandise which was further processed into over 4″ bearings.

While Koyo's proposal would be less burdensome than the use of the standard methodology, we believe that the standard methodology is not unduly burdensome and presents a higher probability of accurate results than using margins calculated for non-further-manufactured sales. Among other things, Koyo's proposal relies on information concerning a different class or kind of merchandise and therefore in this case does not sufficiently allay concerns about potential inaccuracy. The record indicates that the use of these proxy methods would have a relatively high potential for distortion; we believe that the gains in accuracy we would achieve using the standard methodology would outweigh the additional burden resulting from the use of the standard calculation. The record supports our continued use of the standard methodology as a reasonable basis for calculating the CEP for Koyo's further-manufactured merchandise.

Based on its incorrect presumption that we found its sales of identical or other A–588–604 subject merchandise to be in an insufficient quantity to be used as a proxy for its further-manufactured A–588–604 merchandise, Koyo argues that the Department should have compared the value of all imported unfinished components to the value of all finished bearings (whether subject to the A–588–604 order or A–588–054 finding) in order to make our sufficiency determination. Since we rejected the use of Koyo's identical or other A–588–604 subject merchandise based on our determination that these alternatives were inappropriate, Koyo's argument is irrelevant. However, we nonetheless note that section 772 (e)(1) and (e)(2) of the Act refers to identical or other subject merchandise. As a result, when determining if such sales occurred in a sufficient quantity, the statute clearly limits our determination to the scope of the order and does not permit the inclusion of non-subject sales as Koyo suggests.

In light of all of the above, we have determined that the facts in this case support the selection of the standard methodology as a reasonable basis. Furthermore, because Koyo failed to comply with the Department's request for further-processing data, for these final results we have applied as adverse facts available to Koyo's further-manufactured merchandise the highest rate ever calculated for Koyo in any segment of the A–588–604 proceeding (36.21 percent).

Comment 2: Timken argues that Department should adhere to its normal practice and apply an adverse facts available rate of 36.21 percent to the total sales value of Koyo's further-manufactured sales rather than to the total entered value of these sales. Citing the United States Court of Appeals for the Federal Circuit's (CAFC) decision in *Olympic Adhesives* v. *United States,* 899 F. 2d 1565, 1572 (Fed. Cir. 1990), Timken contends that the Department is required to draw an inference that is ''reasonably adverse'' to the respondent. However, Timken asserts, Koyo's selective submission of information has seemingly worked to its advantage in that Koyo has apparently received a lower margin despite the application of facts available. Timken maintains that this is supported by the fact that while the preliminary margin for Koyo in the A–588–604 case for this review is 23.26 percent, in previous reviews in which the Department calculated margins for both Koyo's A–588–604 further-manufactured and non-further manufactured sales, preliminary margins for Koyo were 46.03 percent (1992–1993) and 41.21 percent (1993–1994).

Koyo responds that while the Department should not have applied facts available at all, nonetheless it should reject Timken's argument. Koyo argues that it would be difficult to imagine how applying the highest rate ever calculated for Koyo is not ''reasonably adverse.'' Furthermore, Koyo asserts that just because Timken is able to devise a more adverse approach in applying facts available does not mean that the Department's application of facts available is not ''reasonably adverse.'' Koyo also contends that the Department's choice of the highest rate ever for Koyo as the adverse facts available rate was reasonable considering the fact that Koyo cooperated with the Department in every aspect of the review with the only exception being its decision not to file a response to Section E of the Department's questionnaire.

Department's Position: We disagree with Timken. In accordance with section 776 (a) and (b) of the statute and our consistent practice, because Koyo failed to cooperate to the best of its ability in responding to our requests for information by declining to provide data on its further-processed sales, we applied adverse facts available in the absence of the further-manufacturing sales information. In selecting from among the facts available, we chose as the adverse facts available rate to apply to Koyo's further-manufactured sales the highest rate we ever calculated for Koyo in any previous review of the A–588–604 case. We then applied that rate to the total entered value of Koyo's further-manufactured sales. In choosing among the facts available, we are not required by the statute to select a method that is ''the most'' or ''more'' reasonably adverse. In choosing the highest margin ever calculated for Koyo in the A–588–604 case, we have adhered to the statutory language and selected information that is adverse to the interest of Koyo. Timken has failed to offer arguments or provide record evidence demonstrating that the rate selected is not reasonably adverse. Therefore, for these final results, we have not changed our application of facts available with respect to Koyo's sales of further-manufactured TRB components.

Comment 3: For the preliminary results of these reviews, we applied facts available with respect to certain of MC's sales because it did not provide

complete model-matching data. The absence of this information prevented us from finding a suitable home market match for these U.S. sales. Because the Department did not issue a supplemental questionnaire to MC prior to the preliminary results, we provided the company with an opportunity to correct its deficiencies for the final results. Timken argues that if MC is unable to provide the information necessary for matching certain of its U.S. sales to sales of the foreign like product, the Department should apply as adverse facts available to these unmatched U.S. sales the highest margin for any respondent in any review of the A–588–054 finding.

Department's Position: As stated in our preliminary results, MC's questionnaire response contained only limited model-match information which prevented us from finding contemporaneous sales of the foreign like product for comparison to a small number of U.S. sales of subject merchandise (*see TRB Prelim* at 47455). As a result, in accordance with section 776(a) of the Act, we resorted to facts available. Because MC was not previously afforded the opportunity to remedy or explain its deficiencies, on September 16, 1997, we issued a supplemental questionnaire to MC requesting this information. On September 30, 1997, MC responded by submitting the necessary data. The information provided by MC has allowed us to find contemporaneous sales of the foreign like product to compare to all of MC's U.S. sales. Therefore, we have determined that it is not necessary to apply facts available to any of MC's U.S. sales for these final results.

2. Adjustments to Normal Value

Comment 4: Timken asserts that because there is a discrepancy between NTN's computer tape and the total billing adjustment figure in a verification exhibit, NTN has incorrectly reported its home market billing adjustments. Thus, Timken argues that NTN's reporting is inconsistent with its narrative response and its verification exhibit and, given these inconsistences, the Department should convert NTN's negative billing adjustments to positive adjustments.

NTN claims that there is no merit to Timken's request because the Department verified that its reported home market billing adjustments were accurate. Therefore, NTN argues that the Department should retain its billing adjustments as reported, and reject Timken's proposed adjustment.

Department's Position: We agree with Timken in part. We examined NTN's home market database and found a significant discrepancy between the total billing adjustment for the POR located in exhibit three of our home market verification report and the total billing adjustment we derived from NTN's home market database. However, the difference between the two totals was significantly different from the difference Timken cited in its brief. Therefore, we reviewed the record to ascertain the accurate total for NTN's billing adjustments.

During verification we thoroughly verified NTN's reported home market volume and value for the POR. As our verification report indicates, it was necessary for us to reconcile the volume and value NTN reported in its response to its Ministry of Finance (MOF) reports. As part of this reconciliation we examined an adjustment NTN made for its total HM billing adjustments for the POR (*see* Department's Home Market Verification Report for NTN, July 9, 1997, exhibit three) (NTN HM Report). Not only did we successfully trace this total to the computer program NTN used to calculate it, but we also traced NTN's reported volume and value for the POR for its home market sales directly to the MOF report with no discrepancies (*see* NTN HM Report at 6). We also verified NTN's reported, transaction-specific home market billing adjustments by examining a variety of sales documentation in the sales trace portion of our verification (*see* NTN HM Report at 17). Again we found no discrepancies. As a result of both verification exercises, one would assume that NTN's reported home market billing adjustments were accurate and that the total of its transaction-specific billing adjustments for the POR would equal the total reported on exhibit three of our verification report. However, this is not the case. In fact, when we calculated the overall POR total billing adjustment for NTN's home market database, this total was significantly different from that reported in the referenced exhibit three. Therefore, we needed to determine which billing adjustment figure was correct. For example, as we noted above, not only did we verify the accuracy of the total from exhibit three, but we also verified the accuracy of NTN's reported transaction-specific billing adjustments. After additional review, we have concluded that the exhibit three figure is the accurate total. We recognize that while our verification of NTN's reported transaction-specific adjustment yielded no discrepancies, this verification exercise constituted a ''spot check.'' In other words, we only examined selected billing adjustments. It is therefore possible that, while the samples we selected were correct, several of NTN's other reported transaction-specific billing adjustments were inaccurate. In fact, we have determined that other transaction-specific adjustments are inaccurate because the total of all billing adjustments does not match the total from exhibit three. Furthermore, because the total from exhibit three resulted in our successful trace to NTN's MOF reports, we find this total to be far more reliable than any other information on the record.

Therefore, having determined that the exhibit three total billing adjustment amount is the accurate figure, we have adjusted NTN's reported transaction-specific billing adjustments to reflect this total. However, because our own analysis indicates an adjustment different than that calculated by Timken, while we agree with Timken that an adjustment is warranted, we have relied on our own calculated adjustment amount. Furthermore, because the record provides no information as to which transaction-specific billing adjustments are accurate, and because NTN has neither explained this discrepancy nor provided us with any information with respect to the correction of this discrepancy in its reported data, we have relied on facts available to correct NTN's reported home market billing adjustments. Because we are unable to identify which billing adjustments are inaccurate, as facts available, we systematically sorted through NTN's raw home market database and totaled the reported per-sale billing adjustments until we arrived at a total equal to our calculated adjustment. We then adjusted these sales' billing adjustments such that they reflected the total in exhibit three and disallowed the rest of NTN's reported billing adjustments. For a detailed description of this methodology please refer to the proprietary version of the Department's Final Analysis Memorandum for NTN, dated January 7, 1998.

Comment 5: Timken contends that NTN used an incorrect denominator when calculating the ratio it used to allocate home market inventory carrying costs, resulting in inaccurate expense calculations. Timken also argues that even if NTN had calculated an accurate ratio, it nevertheless incorrectly applied this percentage to its home market sales. Therefore, Timken asserts, for purposes of the final results the Department should not only recalculate the inventory carrying cost expense ratio for

NTN's home market sales using the appropriate sales value (denominator), but it should also use the revised ratio to recalculate NTN's claimed adjustment.

NTN argues that the Department thoroughly verified its calculation methodology for inventory carrying costs and found no discrepancies. NTN further asserts that not only is Timken's argument based on a misunderstanding of information on the record, but the Department has repeatedly accepted NTN's reporting methodology in prior TRB and antifriction bearings (AFB) cases. *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan, Preliminary Results of Antidumping Duty Administrative Reviews and Termination in Part*, 61 FR 25200, 25202 (May 20, 1996) and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 66472, 66486 (December 17, 1996) (*AFBs V*). As a result, NTN argues, there is no basis for Timken's argument.

Department's Position: We agree with NTN. Timken appears to have misunderstood the verification exhibits. However, it is clear from the information on the record that NTN accurately calculated and applied the appropriate ratio when allocating its home market inventory carrying costs. Not only did we verify NTN's inventory carrying cost allocation, including the denominator, without discrepancy (*see* NTN HM Report at 11), but NTN's response demonstrates that NTN applied an accurate ratio to all of its home market sales. Therefore, we have not recalculated NTN's reported home market inventory carrying costs for these final results.

Comment 6: Timken argues that the Department should ensure that all of NTN's reported home market adjustments are accurate and claims that NTN's post-sale freight, pre-sale freight, packing labor, packing material, and indirect selling expenses (to include technical services, advertising, warehousing, and other indirect selling expenses) were incorrectly allocated using an inaccurate total sales value. Timken asserts that the Department should recalculate allocation ratios for all of NTN's expenses (except technical services) using the correct total sales value and apply these revised ratios to NTN's home market sales to calculate revised expense adjustments.

NTN contends that these adjustments were successfully verified and that its methodology has been accepted by the Department in the past. NTN claims that for the reasons set forth in comments four and five, the Department need not reexamine the data verified in Japan. Further, NTN contends that, because Timken fails to put forth any rationale regarding their proposed modification of the ratio used to determine the amount of the adjustment, there is absolutely no grounds for the Department to reverify and modify data already closely examined.

Department's Position: We agree with the respondent. In the instant review we conducted a thorough verification of NTN's reported home market adjustments to include post-sale freight, pre-sale freight, packing labor, packing material, and indirect selling expenses. We concluded that NTN's methodology yielded accurate results (*see* NTN HM Report at 8). After reviewing the record again for these final results, it is clear from the home market verification exhibits that all of NTN's adjustments were calculated correctly. Therefore, for these final results, we have accepted NTN's reported home market adjustments but have recalculated them without regard to levels of trade, as discussed in our response to comment 32 below.

Comment 7: Timken claims that NTN failed to provide an adequate narrative response to the Department's supplemental questionnaire regarding its calculation of technical service expenses. Instead, Timken argues, NTN failed to demonstrate that its technical services were selling expenses, and, as a result, the Department should not make an adjustment to normal value (NV) for these expenses.

NTN claims that Timken's argument is based on a misunderstanding of the NTN corporate brochure and that Timken misunderstands the relationship, role, and function of those entities which incurred technical service expenses during the POR. NTN argues that it has clearly demonstrated that all of its technical service activities are selling expenses and that, Timken's claims should be dismissed as groundless.

Department's Position: We agree with NTN. In its brief Timken argues that a specific entity which NTN reported as incurring technical service expenses did not incur these expenses as selling expenses. However, it is clear from information on the record that the unit in question performed selling functions, including technical services, and thus incurred selling expenses, including technical service expenses. Furthermore, at verification we verified that the unit in question clearly performed selling functions, and clearly incurred selling expenses. Timken's claims are based on its failure to recognize the distinction between two separate divisions of the same unit which perform separate responsibilities. Therefore, for these final results, we agree with NTN and have continued to accept its reported technical service expenses.

Comment 8: Timken argues that Koyo's transaction-specific home market billing adjustments (BILADJ1H) are already reflected in the reported gross unit prices and that, consequently, the Department should not adjust Koyo's unit prices for the BILADJ1H amounts. Timken asserts that the Department's June 20, 1997 home market verification report for Koyo (Koyo Home Market Report) supports its arguments that home market prices have already been revised to account for billing adjustments because the report notes that ''Koyo searched back through its database, located the matching sales transaction(s), canceled them out and re-entered the revised price'' (Koyo Home Market Report at 6). Additional evidence from the relevant verification exhibit, Timken argues, also supports its conclusions. For example, Timken notes, there is a particular TRB model which appears in Koyo's sales ledger at a given price (apparently the ''original'' price), but the reported gross unit price for a sales transaction involving that model is different from the ledger price. Timken further argues that the fact that the Department had to deduct post-sale price adjustments from the ledger totals to reconcile total value and volume supports its position that gross unit sales prices are already net of billing adjustments.

Koyo responds that Timken has overlooked an error in the BILADJ1H computer reporting methodology that was corrected prior to verification. Koyo argues that the revised tapes it submitted to the Department after verification properly reflect gross unit prices prior to any billing adjustments. The reported gross unit price of the TRB model identified by Timken, Koyo argues, has been corrected on the revised tapes and now matches the ''original'' price (before any adjustments) appearing in its sales ledgers.

Department's Position: We disagree with petitioner. We have reviewed the record, and have determined that the gross unit prices Koyo reported in its revised home market tape submitted on

May 30, 1997 are not net of billing adjustments. As Koyo explained in its rebuttal brief, it filed a revised home market sales file with the Department as a result of the error it discovered in the reporting methodology for this adjustment. The model identified by Timken was one of those affected by this reporting error (see Koyo Home Market Report at 6). Therefore, for these final results, we have not made any changes with respect to our treatment of Koyo's transaction-specific billing adjustments.

Comment 9: Timken argues that the Department should reject Koyo's and NSK's claims for home market lump-sum post-sale price adjustments (PSPAs). With respect to Koyo, Timken asserts that the Department should deny an adjustment to NV for Koyo's customer-specific lump-sum billing adjustments (BILADJ2H) for the following reasons: (1) NV may not be modified by adjustments attributable to non-scope merchandise; (2) sales prices modified by adjustments not attributable to those particular sales cannot be used to calculate NV; (3) Koyo has not acted to ''the best of its ability'' in reporting its lump-sum billing adjustments; and (4) Koyo hasn't demonstrated that its allocation methodology is not distortive. Timken notes that Koyo has calculated its lump-sum billing adjustments by multiplying the total adjustment amount paid to a customer by the ratio of its TRB sales to that customer to the total sales to that customer. As a result, Timken argues, this adjustment is attributable to subject and non-subject merchandise and this allocation methodology attributes a portion of the adjustment to sales for which no adjustment was made. Timken claims that the Court of International Trade (CIT) in *Torrington Co.* v. *United States*, 17 CIT 199, 218, 818 F. Supp 1563, 1578 (1993) (*Torrington*) held that ''merchandise which is outside the scope of an antidumping duty order cannot be used in the calculation of antidumping duties,'' and its decision in this case is reason alone to reject Koyo's claim for lump-sum billing adjustments.

Regarding its next claim, Timken asserts that the statute provides that ''normal value shall be the price'' at which the foreign like product is sold. However, Timken argues, as a result of Koyo's allocation methodology, there are some home market sales prices that have been modified by a portion of the lump-sum billing adjustment which is not properly attributable to those particular sales. Therefore, Timken argues, the modified price of such sales is not ''the price at which the foreign like product was first sold.''

Timken also argues that Koyo's claim for lump-sum billing adjustments should be denied because Koyo has not acted to the best of its ability in reporting them. Timken claims that there is information on the record which demonstrates Koyo could have devised a computer program to match lump-sum adjustments to the relevant sales. For example, Timken argues that while in its questionnaire response Koyo states that it does not maintain lump-sum adjustments in a customer-specific manner, it also states in the response that it ''matched these debit and credit notices to the relevant sales in order to report the billing adjustments on a transaction-specific basis.'' Timken maintains that this is exactly the type of computer programming that would allow Koyo to attribute lump-sum billing adjustments to the sales upon which they were granted. Timken also argues that additional evidence of Koyo's ability to match lump-sum adjustments to relevant sales is contained in the home market verification report, which describes how Koyo was able to design a program that searched its database to reenter revised unit prices.

Finally, Timken asserts that Koyo has not demonstrated that its lump-sum billing adjustments are not distortive, and claims that Koyo's May 30, 1997 home market sales printout demonstrates this. Timken points to two examples of similar gross unit prices from the sales tape that have been modified by lump-sum billing adjustments, and argues that because each of the adjustments is a given percentage of the unit price, all those sales which have had the adjustment allocated to them, even though they were not in the group of sales to which the adjustment is correctly attributed, have been modified by that percentage. Timken further contends that such a difference is distortive given that the statute recognizes any margin over .5 percent as significant, and recommends that the Department subtract (rather than add) BILADJ2H from the gross unit price to correct this distortion.

Petitioner also urges the Department to reject NSK's claims for lump-sum rebates. Timken argues that NSK failed to accurately report the amount of it customer-specific lump-sum PSPAs directly attributable to specific sales of scope merchandise, and that, accordingly, the Department should deny an adjustment to NV for these PSPAs. Timken argues that the Department's acceptance of NSK's lump-sum adjustments is contrary to *Federal-Mogul Corp.* v. *United States*, 834 F. Supp. 1391 (CIT 1993), in which the CIT, upon remand, ordered the Department to attempt to devise a methodology that removed PSPAs and rebates paid on sales of non-subject merchandise from FMV (NV), and to deny such an adjustment if they could not be removed. In that decision, Timken contends, the CIT held that PSPAs and rebates paid on both subject and non-subject merchandise were acceptable provided the amount paid per sale was the same throughout the POR. Timken further argues that because the CIT determined that NSK did not meet the standard for acceptance of its lump-sum PSPAs, and because NSK's allocation methodology for the current reviews is apparently unchanged, its lump-sum adjustments should not be allowed. Timken asserts that the CIT, in other decisions, has upheld the rejection of NSK's lump-sum adjustments. For example, in *Torrington Co.* v. *United States*, 881 F. Supp 622 (CIT 1995), Timken argues, the CIT ordered the Department on remand to develop a methodology for removing PSPAs paid on non-subject merchandise from the calculation of FMV (NV). Timken also cites *Torrington Co.* v. *United States*, 926 F. Supp. 1151 (CIT 1996), and claims that the CIT, in that decision, held that PSPAs which could not be tied specifically to the sales for which they were granted could not be treated as direct expenses and affirmed the disallowance of NSK's lumps-sum adjustments because they could not be tied to specific part numbers.

Timken further contends that in *Timken Co.* v. *United States*, 930 F. Supp. 621 (1996), the CIT held that Commerce should not have allowed an adjustment to FMV (NV) for NSK's lump-sum PSPAs. Timken also cites to the CIT's more recent decision in *NSK vs. United States*, 969 F. Supp. 34 (CIT 1997), asserting that the CIT affirmed the Department's disallowance of NSK's lump-sum PSPAs.

In sum, Timken argues that NSK's allocation methodology is distortive because, although every individual payment of a lump-sum adjustment ties to a certain group of sales transactions (and not to all sales), NSK nonetheless allocates the total of lump-sum payments to all POR sales. In addition, Timken claims that NSK has not acted to the best of its ability in reporting its lump-sum PSPAs.

Koyo responds that its lump-sum billing adjustments are not distortive. Citing to the most recent AFB and TRB reviews, Koyo asserts that the Department has evaluated Koyo's lump-sum billing adjustment methodology and in each case has allowed the adjustment. The reporting methodology

for the current reviews, Koyo asserts, is the same as that which the Department has previously accepted.

Koyo argues that Timken's reliance on *Torrington* to support its assertions that the adjustment should be denied because it was allocated over a total sales value which included non-subject merchandise is inappropriate because the case was decided before the enactment of the URAA. Furthermore, Koyo argues, even prior to the URAA, the CAFC rejected the distinction between scope and non-scope merchandise used by the CIT. In addition, Koyo argues that the Department determined that the *Torrington* case was of limited relevance in evaluating Koyo's billing adjustment allocation methods for 1994/95 AFB review (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Administrative Review,* 62 FR 2091 (January 15, 1997) (*AFBs VI*)).

With respect to Timken's claims that Koyo has not demonstrated that its allocation methodology is not distortive, Koyo responds, citing the 1995/1996 AFB Final Results (*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997)(*AFB's VII*)), that the Department has established a test for determining whether or not allocations are distortive. Koyo argues that the Department's test does not depend on whether sales in the allocation pool were of non-subject merchandise, nor does it depend upon the difference between the allocated and actual adjustment. Koyo contends that the purpose of the test is to determine if merchandise in the allocation pool is significantly different in terms of value, physical characteristics, and the manner in which it was sold. Koyo further argues that evidence on the record in the instant reviews demonstrates that it has met the Department's test regarding whether an allocation is distortive. For example, Koyo claims that the merchandise over which it allocated billing adjustments was similar in terms of value and physical characteristics and that as a result, the sales patterns of these products were similar to the merchandise to which the adjustments were specifically attributable. Citing *AFBs VI* and *AFBs VII,* Koyo notes that the Department concluded in the three most recent AFB reviews that ''it is not feasible for Koyo to report this adjustment on a more specific basis'' and that ''we are satisfied that Koyo's allocation methodology across subject merchandise by sales value was not distortive.''

Koyo adds that the Department followed the intent of the URAA to liberalize reporting requirements in accepting billing adjustments and asserts that the SAA at 823–824 makes clear this intent. Furthermore, Koyo claims, the Department's new antidumping regulations allow the Department to consider allocated expenses and adjustments where transaction-specific reporting is not possible, and that Koyo's allocation methodology is consistent with the expressed goals of the new regulations.

Koyo claims that calculating BILADJ2H on a transaction-specific basis is not possible. Because a portion of the adjustments are attributable to more than one sale, Koyo asserts that data linking a given sale to a particular adjustment does not exist within its database. Finally, regarding Timken's assertion that any adjustment which exceeds the *de minimis* threshold points to a distortive allocation, Koyo responds that the concept of the *de minimis* threshold is not related to whether or not an allocation is distortive.

NSK responds that the judicial precedent relied on by Timken to support its assertions includes cases decided before the enactment of the URAA which do not govern the Department in post-URAA reviews. Furthermore, NSK argues that the SAA and the new antidumping regulations support the Department's acceptance of NSK's methodology for allocating lump-sum PSPAs. NSK adds that the Department, in recent AFB reviews, has accepted NSK's lump-sum PSPAs.

Department's Position: We disagree with Timken. We have granted claims for PSPAs as direct adjustments to NV if we determined that the respondent, in reporting these adjustments, acted to the best of its ability in providing information and meeting the requirements we have established with respect to these adjustments, and that its reporting methodology was not unreasonably distortive (*see* section 782(e) of the Act). We did not treat such adjustments as direct or indirect selling expenses, but as direct adjustments to identify the correct starting price. While our preference is for transaction-specific reporting, we recognize that this is not always possible. It is inappropriate to reject allocations that are not unreasonably distortive where a fully cooperating respondent is unable to report the information in a more specific manner (*see* section 782(e) of the Act). Accordingly, we have accepted these adjustments when it was not feasible for a respondent to report these adjustments on a more specific basis, provided that the allocation method used does not cause unreasonable inaccuracies or distortions.

In applying this standard, we have not rejected an allocation method solely because the allocation includes adjustments granted on non-scope merchandise. However, such allocations are not acceptable where we have reason to believe that respondents did not grant such adjustments in proportionate amounts with respect to sales of out-of-scope and in-scope merchandise. We have made this determination by examining the extent to which the out-of-scope merchandise included in the allocation pool is different from the in-scope merchandise in terms of value and physical characteristics, and the manner in which it is sold. Significant differences in such terms may increase the likelihood that respondents did not grant price adjustments in proportionate amounts with respect to sales of subject and non-subject merchandise. While we scrutinize any such differences carefully between in-scope and out-of-scope sales in terms of their potential for distorting reported per-unit adjustments on the sales involved in our analysis, it would be unreasonable to require that respondents provide sale-specific adjustment data on non-scope merchandise in order to prove that there is no possibility for distortion. Such a requirement would defeat the purpose of permitting the use of reasonable allocations by a respondent that has cooperated to the best of its ability.

Based on our examination of the record in this and in past reviews, we are satisfied that Koyo's records do not allow it to report these billing adjustments on a transaction-specific basis and that Koyo acted to the best of its ability in calculating the reported adjustment on as narrow a basis as its records allowed. Therefore, for these final results we have made a direct adjustment to NV for Koyo's lump-sum billing adjustments.

With respect to NSK, as explained in our preliminary analysis memorandum, we have accepted its claims for lump-sum rebates because we are satisfied that NSK's methodology, while it includes non-subject merchandise, does not shift rebates from non-scope to scope merchandise. In its response, NSK submitted information demonstrating that the ratio of scope to non-scope merchandise purchased by each customer who received this rebate was relatively constant throughout the POR. Furthermore, we have determined based

on our review of the record that NSK acted to the best of its ability in reporting these price adjustments and that reporting on a more specific basis was not possible given the manner in which NSK maintains its records.

Comment 11: Timken argues that Koyo's home market rebates were not allocated over the actual sales for which they were incurred. Timken further asserts that Koyo did not act to the best of its ability in reporting this adjustment because the record indicates that Koyo had the capability to properly link rebates to specific sales. Finally, Timken maintains that Koyo has provided no evidence demonstrating that its allocation methodology is not distortive and asserts that the Department should consequently deny Koyo's claim for home market rebates.

Koyo responds that, as with its billing adjustments, the measure of whether or not an allocation is distortive does not depend on the difference between an allocated and actual adjustment or whether the allocation pool includes merchandise for which the expense was not originally incurred. Koyo argues that when attempting to determine whether an allocation is distortive, the Department examines the extent to which merchandise in the allocation pool is different from merchandise for which the expense was incurred in terms of value, physical characteristics, and the manner in which it is sold. In fact, Koyo asserts, the Department, in the most recently completed TRB review, found that the subject and non-subject bearings included in the allocation pool for home market rebates did not differ significantly with respect to value, physical characteristics, or sales patterns. Koyo further argues, citing the home market verification report, that the Department's finding that ''[there were] no discrepancies in either the program or the calculation methodology'' demonstrates that Koyo's rebate allocation methodology is not distortive.

Finally, Koyo argues that because the Department in the 1994/1995 TRB reviews determined that Koyo had acted to the best of its ability in reporting rebates, and because the allocation methodology for these reviews is unchanged, the Department should continue to make a direct adjustment to home market price for rebates for these final results.

Department's Position: We disagree with Timken. During the POR Koyo granted rebates to certain of its home market customers. Koyo calculated rebate factors by dividing the total rebates paid to a given customer by the total POR sales to that customer. In our supplemental questionnaire, we asked Koyo to explain why it was unable to report home market rebates on a more specific basis. In its supplemental response Koyo stated that more specific reporting for a certain customer who received rebates was not possible because its records did not allow it to isolate sales of those bearings for which rebates were granted. Based on information Koyo provided, we are satisfied that Koyo acted to the best of its ability in reporting home market rebates. However, because Koyo's allocation methodology includes non-scope merchandise, we have nevertheless examined Koyo's allocation to determine if it is distortive. Our review of the record indicates that the non-scope merchandise included in Koyo's allocation are sales of bearings other than TRBs. Not only has our review and analysis of the record given us no reason to believe that Koyo is more likely to grant rebates on sales of bearings other than TRBs than on sales of TRBs, but we note that Koyo is primarily in the business of selling bearings, some of which are within the scope of the TRB orders and others which are not. While we recognize that there are differences among bearings, we have not found that the scope and non-scope bearings included in Koyo's allocation vary significantly in terms of value, physical characteristics, nor the manner in which they were sold such that Koyo's allocation would result in an unreasonably inaccurate or distortive allocation. Therefore, for these final results we have made no changes in our treatment of Koyo's home market rebates.

Comment 12: Timken argues that Koyo's domestic pre-sale freight expenses should be allocated equally to sales in the home market and in the United States. Timken contends that Koyo's practice of allocating Japanese pre-sale freight expenses to U.S. sales on the basis of transfer prices is potentially distortive because such prices are not at arm's length. Koyo's allocation methodology, Timken argues, has the effect of shifting expenses attributable to U.S. sales to sales in the home market.

Timken also argues that Koyo's response demonstrates that there are certain home market sales for which the company did not incur pre-sale freight expenses. Timken suggests that, because the record indicates that Koyo maintained warehouses at its plants during the POR, and because pre-sale freight expenses are not incurred for sales shipped directly from the plant warehouse to the customer, the Department should follow its practice from the 94–95 TRB review in which it removed the total sales value of Koyo's OEM home market sales from the denominator of the expense ratio.

Koyo responds that Timken's argument regarding its allocation methodology for pre-sale freight has been rejected by the Department in past reviews and urges the Department to once again dismiss it. Koyo argues that it has reported its pre-sale freight expense in the same manner as in past reviews, and asserts that the Department has verified and accepted its use of Koyo Seiko's total sales value as the denominator for calculating pre-sale freight. Koyo further maintains that its total bearing sales amounts were based on its ''Sales and Cost of Goods Sold'' summary, and that the total bearing sales for its distributors were based on figures the Department tied to the audited financial statements. Furthermore, Koyo argues that these sales totals included those to affiliated and unaffiliated customers in the home market and export markets. Koyo argues that because its home market and export sales were to a mix of both affiliated and unaffiliated customers, its allocation methodology was fair and that the proper basis for allocation is its prices for all relevant sales.

Department's Position: We agree with petitioner in part. While we agree that Koyo's questionnaire response does indicate that it did not incur pre-sale freight expenses for certain home market sales, we disagree with Timken that Koyo's allocation of these expenses is otherwise unreasonable. In its response Koyo reported home market pre-sale freight expenses which reflected those expenses it incurred when transporting TRBs destined for sale in both the U.S. and home markets from the home market plant to home market warehouses. While Koyo reported these pre-sale freight expenses for all of its home market and U.S. sales, its questionnaire response indicates that there are certain home market sales for which Koyo did not incur this expense because the merchandise was not transported from the plant to a warehouse at a location different from the plant. For example, on page 36 of its section B response to our questionnaire, Koyo explains that, prior to sale, not only did it store TRBs at its two home market central warehouses, warehouses at its branch and sales offices, and at the warehouses of its consolidated distributors, but it also stored certain merchandise at its plant warehouse. In the proprietary explanation following this description Koyo again indicates that there are certain types of home market sales for which the merchandise was stored at its plant warehouse. In

addition, on page 23 of its section B response, when explaining its post-sale home market freight expenses, Koyo states that it incurred post-sale freight expenses either in shipping merchandise from the plant directly to a customer or when transporting merchandise from a warehouse to a customer. Again, this indicates that there are certain home market sales for which the merchandise is shipped directly from the plant to a customer and, therefore, is not transported to a warehouse at a location different from the plant. Therefore, we agree with Timken that the record demonstrates that there are certain home market sales for which Koyo did not incur home market pre-sale freight expenses.

We have determined that for these final results it is necessary to (1) reallocate Koyo's reported home market pre-sale freight expenses such that the total sales value of those home market sales for which the expense was not incurred is excluded from the allocation denominator, and (2) apply the expense only to those home market sales for which the expense was incurred. However, Koyo's response does not enable us to specifically identify within Koyo's home market database those sales for which the expense was not incurred. In light of this, we have determined to rely on facts available to determine those sales for which the expense was not incurred. Based on Koyo's proprietary narrative explanation on page 36 of its response, we have concluded that Koyo did not incur this expense on certain sales to home market OEM customers. While we recognize that it is likely that not all of Koyo's home market OEM sales were exempt from this expense, because we are unable to identify exactly which OEM sales were exempt, we have applied non-adverse facts available and recalculated the expense adjustment by (1) removing from Koyo's reported allocation denominator the total sales value of Koyo's home market OEM sales and (2) applying the recalculated expense adjustment to U.S. sales and only non-OEM home market sales.

However, despite the fact that we have determined for these final results that Koyo's pre-sale freight allocation denominator is overstated and the expense was reported for home market sales for which it was not incurred, we disagree with Timken that Koyo's allocation otherwise fails to reflect the manner in which the expense was actually incurred. In general, when a respondent relies on an expense allocation to calculate its per-unit adjustment amounts, we require that allocation to reflect the manner in which the expense was actually incurred (*see, e.g., 92–93 TRB Final* at 57635 and *Certain Fresh Cut Flowers From Columbia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42848 (August 19, 1996)). In addition, we examine the respondent's allocation methodology to determine if there is internal consistency between the numerator and denominator and in the methodology as a whole. For example, if an expense is allocated on the basis of total sales value, as is the expense at issue here, the expense amount (the numerator) and the total sales value (the denominator) should reflect the same pool of sales such that the total expense amount reported by the respondent is divided by the total value of the sales for which the expense was actually incurred. Likewise, the allocation ratio should be applied to the same sales price reflected in the denominator. For example, we would not accept the application of an allocation ratio to home market gross sales price if the denominator was calculated by totaling the value of all sales on the basis of a net price. In the instant case, Koyo Seiko, the Japanese parent, incurred the pre-sale freight expenses at issue for all merchandise, whether destined for sale to the U.S., third-country, or home market (with the exception of the home market OEM sales described above). Because Koyo does not maintain its records such that it is able to calculate the total expense amount incurred for each market, it was unable to separately calculate the specific pre-sale freight expense attributable to each market. Therefore, Koyo used as its allocation numerator the total expense amount incurred by Koyo Seiko for all merchandise, as derived from Koyo Seiko's sales records. The sales for which this expense was incurred were Koyo Seiko's sales to all its customers, which encompassed a mix of affiliated and unaffiliated entities in both the export and home markets. Thus, Koyo calculated its pre-sale freight allocation denominator by totaling the value for all of Koyo Seiko's sales to all its customers, as derived from Koyo Seiko's records. While for these final results we have adjusted this denominator to exclude the total sales value of home market OEM sales, we have nevertheless preserved Koyo's basic allocation methodology. Because Koyo Seiko's customers encompassed a mix of affiliated and unaffiliated parties in both the home and export markets, Koyo's denominator includes sales values which reflect both transfer and resale prices. Since Koyo Seiko's customer in the United States is Koyo Corporation of U.S.A. (KCU), its wholly-owned U.S. affiliate, the U.S. sales transactions relevant to Koyo's allocation are those between Koyo Seiko and KCU. Thus, Koyo correctly included within its denominator the total value of its sales to KCU, which were made at transfer prices. Similarly, in the home and third-country markets Koyo Seiko sold to both affiliated and unaffiliated customers. Therefore, Koyo properly included within its allocation denominator the total value of Koyo Seiko's sales to its home and third-country market customers, some of which were made at resale prices while others were at transfer prices. Koyo's methodology, therefore, not only relies on a numerator and denominator which reflect the same pool of sales, but its denominator is calculated on the basis of the value of those sales for which the reported total expense amount was actually incurred. When calculating the per-unit expense adjustment amount for each U.S. and home market transaction, Koyo applied its allocation ratio (which was the same for all sales) to the appropriate unit price. For U.S. sales it applied the ratio to the transfer prices Koyo reported between Koyo Seiko and KCU, which were the U.S. prices upon which the expense was incurred and the U.S. sales values reflected in Koyo's allocation denominator. For home market sales, Koyo applied the ratio to either a resale price (for unaffiliated customers) or transfer price (for affiliated customers) because these were the home market prices upon which the expense was incurred and the home market sales values reflected in the allocation denominator.

Timken argues that, in order to properly reflect commercial reality and avoid distortion, Koyo should instead apply its expense ratio to U.S. resale prices, the price between KCU and the first unaffiliated U.S. customer. However, Timken overlooks the fact that this transaction is not the sale for which the expense was actually incurred. As a result, Timken's proposed methodology would neither reflect the manner in which, nor the sales upon which, Koyo actually incurred the expense. Timken's argument also ignores the fact that Koyo's allocation denominator includes not only U.S. transfer values but home market and third-country transfer values as well. Thus, Timken's assertion that Koyo always calculates the home market expense adjustment on the basis of resale prices is incorrect. Rather, the record demonstrates that, for sales to affiliated home market parties, Koyo calculated the adjustment on the basis of the transfer price between Koyo Seiko

and the affiliated home market customer. In addition, rather than argue that all transfer values included in Koyo's denominator should be excluded from the allocation methodology, Timken limits its argument to only U.S. transfer prices and fails to demonstrate why U.S. transfer values are an improper factor in the denominator's calculation while home market and third-country transfer values are not.

Finally, the record does not contain, and Timken has not provided, any evidence demonstrating that the transfer prices Koyo reported between Koyo Seiko and KCU are unreliable. Rather, the record indicates that these transfer prices were maintained by KCU, for purposes other than antidumping proceedings, within the ordinary course of business. Furthermore, we note that antidumping proceedings are only one of the factors a respondent must account for in setting its transfer prices; transfer prices are also subject to possible Internal Revenue Service audits for U.S. tax purposes and to U.S. Customs' review. Therefore, based on the above reasons, we do not agree with the petitioner that Koyo's basic allocation methodology is unreasonable. Therefore, for these final results, while we have recalculated Koyo's originally reported allocation ratio to exclude home market OEM sales, we have made no other changes to Koyo's overall allocation methodology.

Comment 13: Timken argues that the Department should recalculate Koyo's home market average short-term borrowing rate to exclude interest amounts which it maintains are aberrational and unsupported by the record. Timken asserts that home market verification documents detailing loans taken by Koyo during the POR contain two loan entries which do not list certain relevant information regarding the terms and details of these loans for which the reported interest was incurred.

Koyo argues that Timken's assertions are misplaced because they are based on a misunderstanding of the credit verification exhibit. Koyo argues that the interest amounts Timken identified as aberrational do not constitute payments on specific loans, but rather reflected interest paid by Koyo Seiko under some other arrangement. Citing the Department's home market verification report, Koyo asserts that the Department has already verified the accuracy of Koyo's reported credit expense ratio and found no discrepancies.

Department's Position: We disagree with Timken. During verification we carefully reviewed the manner in which Koyo calculated its short-term interest rate and its credit expense ratios. After reviewing supporting documentation for each of several loans we selected from Koyo's credit calculation worksheets, we were satisfied that Koyo had accurately reported its credit expense. While those entries identified by Timken were not among those chosen, we emphasize that the purpose of verification is not to conduct an exhaustive review of a response. Rather, verification is intended to serve as a spot check to verify the overall integrity of a response (*see, e.g., Bomont Industries* v. *United States*, 14 CIT 208, 209, 733 F. Supp. 1507 (1990)). Absent any unreconciling information regarding Koyo's calculation of its short-term borrowing rate, we were satisfied that this expense was accurately reported. Furthermore, we are generally satisfied with Koyo's explanation of and the reliability of those interest amounts which Timken claims should be removed from the interest rate calculation and can find no evidence on the record that indicates these interest amounts should be excluded from the calculation of credit; accordingly, we have not done so for these final results.

Comment 14: In its case brief Timken argued that Koyo allocated its home market inventory carrying costs (ICC) over a sales value which improperly excluded sales to its distributors. However, Timken subsequently withdrew that argument. In addition, Timken also suggested that the Department should recalculate Koyo's ICC ratio using the following methodology: (1) calculate separate ICC ratios for Koyo Seiko sales and sales by its wholly-owned distributors; (2) apply the Koyo Seiko ICC ratio to all of its sales; and (3) apply both Koyo Seiko's and the distributors' ICC rates to the affiliated distributors' sales. Timken contends that this methodology would produce a more accurate result because merchandise stored by Koyo Seiko and by its distributors remains in inventory for different average periods of time.

Koyo did not specifically comment on Timken's proposed method for allocating ICC.

Department's Position: We agree with Timken. Exhibit B–9 of Koyo's questionnaire response indicates that, to calculate its reported home market ICC, Koyo derived an overall average number of days using inventory balance and total sales figures for both Koyo Seiko and its consolidated distributors. However, because there were significant differences between the inventory balances and total sales values for Koyo Seiko as compared to those for its consolidated distributors, Koyo's calculation of a single average number of days in inventory has the effect of overstating the ICC incurred for those sales made by the consolidated distributors and understating the ICC incurred for sales made by Koyo Seiko. Therefore, because information exists on the record which would allow us to calculate home market ICC which more closely reflect the actual experience of Koyo Seiko and its consolidated distributors, we have recalculated Koyo's reported home market ICC for these final results. Please see our Final Results Analysis Memorandum for Koyo, dated January 7, 1998 for a detailed explanation of our recalculation.

Comment 15: Timken argues that Koyo improperly excluded a certain category of expenses from its reported total export selling expenses.

Koyo responds that its methodology properly excludes these expenses and contends that Timken's argument is based on a misunderstanding of the home market verification report and of Koyo's August 26, 1997 letter in response to Timken's pre-preliminary comments.

Department's Position: We disagree with Timken. We have reviewed the home market verification report and the relevant exhibit and have determined that Koyo correctly excluded this expense category from its total export selling expenses. The proprietary nature of this argument prevents us from discussing it in further detail here. For more information, refer to the proprietary version of our final results analysis memorandum for Koyo, dated January 7, 1998.

3. Adjustments to United States Price

Comment 16: Timken argues that the Department should apply facts available with respect to Koyo's pre-sale U.S. inland freight because Koyo failed to demonstrate that the expenses attributed to subject merchandise are reasonably accurate. Timken is concerned that Koyo's allocation methodology is distortive because (1) the total reported expenses include those associated with shipping merchandise from Japan, Europe, and from Koyo Corporation of U.S.A. Manufacturing Division (KCUM) to KCU, and (2) Koyo allocated freight costs based on the weight of all sales, including those sales for which KCU apparently did not incur a freight expense.

Koyo maintains that Timken incorrectly assumes that this expense is allocated on the basis of sales value when it was actually allocated on the basis of the weight of the merchandise shipped. Koyo further maintains that

allocating this expense based on weight is not distortive because the cost to ship a given weight of non-scope and scope merchandise is identical. Koyo also argues that its allocation methodology is well-established, has been repeatedly verified, and was again verified without discrepancy at the Department's U.S. verification for these reviews.

Department's Position: We disagree with Timken. Koyo calculated its U.S. inland pre-sale freight expense ratio by dividing KCU's total POR freight-in expenses (associated with shipping merchandise from railheads to KCU's warehouses) as reported in its financial statements by the total gross weight shipped to U.S. customers of all products. Koyo then multiplied the resulting freight-in factor by the unit gross weight to arrive at its reported pre-sale freight amounts. During verification, not only did we carefully examine Koyo's methodology for allocating its U.S. pre-sale inland freight expenses, but we tied KCU's reported total pre-sale freight expenses directly to its financial statements and found no discrepancy. In addition, we verified that the gross weight reported by Koyo was accurate (*see* Koyo Seiko U.S. Verification Report, August 7, 1997, at 13).

As noted above, the expense total appearing in Koyo's numerator encompasses POR freight-in expenses incurred when shipping merchandise (whether scope or non-scope) from Europe and Japan to KCU's sales warehouses, and from KCUM to KCU. Similarly, the denominator includes the POR gross weight of all such sales for which these expenses were incurred. We have examined the record and are satisfied that Koyo's records do not allow it to report these expenses on a more specific basis. Additionally, while Timken asserts that KCU apparently allocates U.S. inland pre-sale freight expense totals to certain sales for which KCU did not pay for freight transfers from KCUM to KCU, we can find no evidence on the record indicating that KCU did not incur all expenses associated with shipping merchandise from KCUM to KCU's sales warehouse.

Because we are satisfied that Koyo's allocation is as specific as possible, and because the numerator and denominator properly reflect all shipments and all expenses, we have not resorted to the use of facts available for these final results.

Comment 17: NTN argues that the Department should have calculated CEP profit on a level-of-trade (LOT)-specific basis. NTN claims that the Department noted that prices differed significantly based on the LOT at which merchandise was sold. NTN claims that selling expenses also differed by LOT and had an effect on prices but that this difference does not account entirely for the different price levels. NTN further emphasizes that section 772 (a) and (f) of the Act expresses a preference for the profit calculations to be performed as specifically as possible and on the narrowest basis as possible. Finally, NTN asserts that because the Department calculated constructed value (CV) profit on a LOT-specific basis and matched U.S. and home market sales by LOT, the calculation of CEP profit should also take LOT into account.

Timken argues that the Department rejected the identical argument by NTN in its final results of the sixth review of the AFBs case, stating that ''neither the statute nor the SAA require us to calculate CEP profit on a basis more specific than the subject merchandise as a whole. * * * [t]he statute and SAA, by referring to ''the'' profit, ''total actual profit,'' and ''total expenses'', imply that we should prefer calculating a single profit figure'' (*see AFBs VI* at 2081 and 2125). For these same reasons, Timken contends that the Department should again reject NTN's assertion in this TRB review.

Department's Position: We agree with Timken. Neither the statute nor the SAA requires us to calculate CEP profit on a basis more specific than the subject merchandise as a whole. *See AFBs VI* at 2125. Respondent's suggestion would not only add a layer of complexity to an already complicated exercise with no increase in accuracy, but a portion of the CEP-profit calculation would be more susceptible to manipulation. Therefore, for these final results we have not changed our CEP profit calculation.

Comment 18: NTN asserts that the Department had no basis for including EP sales in the calculation of the CEP profit adjustment and argues that section 772 (a) and (f) of the Act clearly state that the adjustment for profit to CEP sales is to be based on the expenses incurred in the United States as a percentage of total expenses. NTN contends that section 772(d) of the Act contains no provision for the inclusion of export price expenses and that the canon of statutory construction, expressio unius est exclusio alterius, indicates that the absence of such a provision precludes its inclusion. NTN further asserts that the SAA similarly states that ''the total expenses are all expenses incurred by or on behalf of the foreign producer and exporter and the affiliated seller in the United States with respect to the production and sale of. . . the subject merchandise sold in the United States and the foreign like product sold in the exporting country (if Commerce requested this information in order to determine the normal value and the constructed export price)''. Therefore, NTN claims that the Department has calculated CEP profit in a manner contrary to that specified in the statute.

Department's Position: We disagree with NTN. The Department's September 4, 1997 policy bulletin regarding the calculation of CEP profit indicates that section 772(f)(2)(D) of the Act clearly states that the calculation of total actual profit is to include all revenues and expenses resulting from the respondent's EP sales as well as from its CEP and home market sales. The basis for total actual profit is the same as the basis for total expenses under section 772(f)(2)(C) of the Act. The first alternative under this section states that, for purposes of determining profit, the term ''total expenses'' refers to all expenses incurred with respect to the subject merchandise sold in the United States (as well as home market expenses). Thus, where the respondent makes both EP and CEP sales to the United States, sales of the subject merchandise would encompass all such transactions. Therefore, because NTN had EP sales, we have included these sales in the calculation of CEP profit.

Comment 19: NTN argues that the Department's decision to ignore adjustments to its U.S. indirect selling expenses for expenses incurred when financing cash deposits for antidumping duties is contrary to both the Department's position in past reviews and judicial precedent, and that it inappropriately denies an adjustment for expenses incurred solely as a result of the existence of an antidumping order.

NTN asserts that the CIT has previously held that these imputed interest expenses do not constitute selling expenses, and cites *PQ Corp.* v. *United States,* 11 CIT 53, 67 (1987) (*PQ Corp*), in which the CIT stated, ''if deposits of estimated antidumping duties entered into the calculation of present dumping margins, those deposits would work to open up a margin where none otherwise exists.'' NTN claims that the rationale in *PQ Corp* applies similarly to interest incurred when financing cash deposits, and asserts that if the Department were to allow interest expenses from previous reviews to affect the calculation of margins for current reviews, it would precipitate an unending cycle which would prevent the Department from revoking an order.

NTN maintains that the CIT, in *Timken* v. *United States,* Slip Op. 97–87 (July 3, 1997)(*Timken*), upheld NTN's adjustments to U.S. indirect selling expenses for interest incurred when financing cash deposits, and notes that the Department itself argued in support of such an adjustment. NTN argues that, as set forth in *Timken,* interest expenses attributable to cash deposit financing are not incurred in the course of selling merchandise in the United States.

NTN also references the CIT's decision in *Federal Mogul Corp.* v. *United States,* Slip Op. 96–163 (December 12, 1996), claiming that the CIT explicitly rejected the petitioner's argument that interest expenses constituted selling expenses because they were incurred as a result of NTN's ''decision'' to engage in dumping. Additionally, argues NTN, the Court rejected the petitioner's argument that allowing such an adjustment was duplicative of interest paid on the refund of excess cash deposits.

Timken responds that the Department correctly rejected NTN's claim for a downward adjustment to U.S. indirect selling expenses for interest incurred when financing cash deposits. Timken argues that allowing such an adjustment serves as an incentive to respondents to prolong litigation to avoid actual payment of duties, which is contrary to the purpose of the interest provision set forth in the Trade Agreements Act of 1979, which is to reduce incentives to delay payment of duties owed.

Department's Position: We agree with Timken that we should deny an adjustment to NTN's U.S. indirect selling expenses for expenses which NTN claims are related to financing of cash deposits.

The statute does not contain a precise definition of what constitutes a selling expense. Instead, Congress gave the administering authority discretion in this area. It is a matter of policy whether we consider there to be any financing expenses associated with cash deposits. We recognize that we have, to a limited extent, removed such expenses from indirect selling expenses for such financing expenses in past reviews of this finding, this order, and other orders. However, we have reconsidered our position on this matter and have now concluded that this practice is inappropriate. Further, we note that the Court's affirmance of our prior policy does not preclude us from following this new, reasonable policy.

We have long maintained, and continue to maintain, that antidumping duties, and cash deposits of antidumping duties, are not expenses that we should deduct from U.S. price. To do so would involve a circular logic that could result in an unending spiral of deductions for an amount that is intended to represent the actual offset for the dumping (*see, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Final Results of Antidumping Duty Administrative Reviews,* 57 FR 28360 (June 24, 1992) (*AFBs II*); *see also, e.g., Certain Cut-to-Length Carbon Steel Plate from Germany; Final Results of Antidumping Duty Administrative Review,* 62 FR 18390, 18395 (April 17, 1995)). We have also declined to deduct legal fees associated with participation in an antidumping case, reasoning that such expenses are incurred solely as a result of the existence of the antidumping duty order (*see AFBs II*). Underlying our logic in both these instances is an attempt to distinguish between business expenses that arise from economic activities in the United States and business expenses that are direct, inevitable consequences of an antidumping duty order.

Financial expenses allegedly associated with cash deposits are not a direct, inevitable consequence of an antidumping duty order. As we stated in the preliminary results at 47455: ''[m]oney is fungible. If an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost.'' Companies may choose to meet obligations for cash deposits in a variety of ways that rely on existing capital resources or that require raising new resources through debt or equity. For example, companies may choose to pay deposits by using cash on hand, obtaining loans, increasing sales revenues, or raising capital through the sale of equity shares. In fact, companies face these choices every day regarding all their expenses and financial obligations. There is nothing inevitable about a company having to finance cash deposits and there is no way for the Department to trace the motivation or use of such funds even if it were.

In a different context, we have made similar observations. For example, we stated that ''debt is fungible and corporations can shift debt and its related expenses toward or away from subsidiaries in order to manage profit'' (*see Ferrosilicon from Brazil,* 61 FR at 59412 (regarding whether the Department should allocate debt to specific divisions of a corporation)).

So, while under the statute we may allow a limited exemption from deductions from U.S. price for cash deposits themselves and legal fees associated with participation in dumping cases, we do not see a sound basis for extending this exemption to financing expenses allegedly associated with financing cash deposits. By the same token, for the reasons stated above, we would not allow an offset for financing the payment of legal fees associated with participation in a dumping case.

We see no merit to the argument that, since we do not deduct cash deposits from U.S. price, we should also not deduct financing expenses that are arbitrarily associated with cash deposits. To draw an analogy which shows why this logic is flawed, we also do not deduct corporate taxes from U.S. price; however, we would not consider a reduction in selling expenses to reflect financing alleged to be associated with payment of such taxes.

Finally, we also determine that we should not use an imputed amount that would theoretically be associated with financing of cash deposits. There is no real opportunity cost associated with cash deposits when the paying of such deposits is a precondition for doing business in the United States. Like taxes, rent, and salaries, cash deposits are simply a financial obligation of doing business. Companies cannot choose not to pay cash deposits if they want to import nor can they dictate the terms, conditions, or timing of such payments. By contrast, we impute credit and inventory carrying costs when companies do not show an actual expense in their records because companies have it within their discretion to provide different payment terms to different customers and to hold different inventory balances for different markets. We impute costs in these circumstances as a means of comparing different conditions of sale in different markets. Thus, our policy on imputed expenses is consistent; under this policy, the imputation of financing costs to actual expenses is inappropriate.

Comment 20: Timken contends that the Department should recalculate NTN's U.S. credit expense because NTN reported a customer-specific average credit expense rather than a transaction-specific credit expense. Timken argues that NTN has provided the necessary information on the record to recalculate a transaction-specific credit expense. Further, Timken claims that, based on a comparison of the credit amounts reported by NTN to those credit amounts which are derived when using NTN's reported transaction-specific sales payment dates, it is apparent that NTN's customer-specific methodology produces distortive results.

NTN argues that the Department has upheld its methodology in several past proceedings and has verified the accuracy of NTN's data, not only in this review, but in previous reviews as well.

Department's Position: We agree with Timken with regard to NTN's CEP sales. We have data on the record which allows us to calculate a transaction-specific credit expense for CEP sales. Therefore, we have recalculated NTN's credit expense using the dates of payment which NTN reported.

Comment 21: Timken contends that NTN improperly excluded certain expenses from its reported U.S. indirect selling expenses and states that, for the purpose of final results, the Department should deduct these expenses from CEP.

NTN argues that not only has the Department rejected Timken's claim in past reviews, determining that NTN's reporting methodology was accurate, but in this current review the Department thoroughly verified this methodology and again found no discrepancies.

Department's Position: We agree with the respondent. As NTN has explained and as we have repeatedly accepted, because certain of its U.S. expenses were incurred solely for non-scope merchandise, in order to ensure an accurate allocation of its U.S. expenses, NTN first removed all such expenses from its pool of U.S. expenses. The remaining expenses which were incurred for either scope or non-scope merchandise, but cannot be specifically linked to either scope or non-scope merchandise by NTN, were then allocated to scope and non-scope merchandise. We have consistently determined this methodology to be reasonable not only in past reviews of these TRB cases but in past reviews of AFB cases as well (*see 92/93 TRB Final* and *AFBs VII*). In addition, for this review, we verified NTN's U.S. expenses and found no discrepancies (*see* Department's U.S. Verification Report for NTN, June 3, 1997, at 10) (NTN U.S. Report). Because NTN has not altered its methodology for this current review and because the record in this review indicates no reason for a different methodology to be used, we have again accepted this methodology for these final results.

Comment 22: Timken alleges that certain of NTN's claimed EP transactions are actually CEP transactions when examined in light of the criteria for defining EP transactions as outlined in the Department's *Antidumping Manual.* Petitioner states that EP sales must meet the following criteria; (1) the sales transaction occurs prior to importation; (2) the merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent; (3) this was a customary commercial channel for sales of this merchandise between the parties involved; and (4) the related agent in the United States acted only as a processor of the sales-related documentation and a communication link with the unrelated U.S. buyer. Timken argues that, when the activities of the related selling agent exceed the functions normally associated with a related agent involved with EP sales, the sale cannot be classified as an EP sale. For example, petitioner asserts that the Department's *Antidumping Manual* (1994) states that ''the extent of the related selling agent's normal functions, such as the administration of warranties, advertising, extensive in-house technical assistance, and the supervision of further manufacturing, may indicate that the agent is more than the ''paper-pusher'' envisioned for purchase price sales'' (*see Antidumping Manual*, Chapter 7 at 4–5). Timken claims that evidence on the record indicates that NTN's U.S. subsidiary, NBCA, performed numerous functions which exceeded those normally associated with a related agent involved in EP sales transactions. As a result, Timken concludes, the Department should reclassify all of NTN's reported EP sales as CEP sales.

NTN argues that, as the Department has verified in this current and in previous TRB reviews, (1) there were no sales negotiations between its unaffiliated EP customer and NBCA, (2) NBCA did not receive any purchase orders from the unaffiliated customer, (3) NBCA did not generate any invoices for unaffiliated customers, (4) NBCA never took title to the merchandise in question, (5) NBCA never carried the merchandise in its inventory, and (6) NBCA never acted as the importer of record. In summary NTN states, these sales were clearly made in Japan and clearly met the Department's definition of EP sales transactions. Furthermore, NTN adds, the record demonstrates that NBCA acted solely as a communications link and a processor of documents with respect to U.S. EP sales.

Department's Position: We agree with NTN. Timken lists the criteria the Department considers when deciding whether sales should be classified as EP or CEP. Of the criteria outlined, however, the only area that Timken questions is the activities of NBCA's liaison office. As NTN notes, there is no information on the record suggesting that NBCA is the seller for the sales in question or that NTN performed activities that exceeded those normally associated with the role of a related agent in EP transactions. Moreover, we verified NTN's response for this review and found that NBCA's functions with respect to EP sales were limited to being a communications link and a processor of documents. Therefore, we have not reclassified NTN's EP sales for these final results.

Comment 23: Due to the proprietary nature of the comments we received regarding NTN USA's expenses, we are unable to state the concerns expressed by both NTN and Timken and our position with response to this issue. Therefore, for a detailed explanation of this issue and our position, please see the proprietary analysis memorandum for NTN dated January 7, 1998.

4. Cost of Production (COP) and Constructed Value (CV)

Comment 24: NTN claims that the Department's preliminary results adjustment to COP and CV for affiliated-party inputs is distortive and should be eliminated. NTN argues that the Department's adjustment, which was calculated based on sampled transactions, does not accurately reflect the experience of all sales and, by applying the results of the sample to the total population of affiliated-party purchases, the Department, in essence, used facts available when sufficient information was clearly available on the record. NTN further argues that the Department misinterpreted section 773(f)(2) and (3) of the Act by determining that an adjustment was necessary. NTN claims that section 773(f)(2) of the Act addresses the circumstances under which the Department should disregard some transactions, but it does not mention the Department's practice of choosing the highest of either the cost of production, transfer prices, or market prices when calculating COP or CV. NTN additionally claims that Section 773(f)(3) of the Act requires the Department to have reasonable grounds to believe that inputs are being sold at less than the COP before it may use COP information. NTN contends that, because the record demonstrates that affiliates sold many inputs to NTN above COP, it is incorrect for the Department to adjust the costs for all TRBs which contained affiliated-party inputs.

NTN also asserts that, assuming the Department was correct in making an adjustment for affiliated-party inputs, it should use a more reasonable recalculation methodology such as the weighted-average difference between

COP and transfer price for all inputs sold to NTN. According to NTN, by adjusting all sales which had an affiliated-party input, the Department added additional profit to those inputs which already included profit. Therefore, NTN concludes that the Department should use NTN's affiliated-party input data as reported.

The petitioner contends that the Department acted in accordance with section 773(f)(2) and (3) of the Act and that NTN failed to demonstrate that the Department's adjustments produced distorted results. According to the petitioner, section 773(f)(2) and (3) of the Act states that the Department may use information available in circumstances such as those which exist with respect to NTN in this review and that the Department has the right to use discretion in selecting the highest of (1) the transfer price from an affiliated party, (2) the COP for the input, or (3) the price from the unaffiliated party. Timken disputes NTN's interpretation of section 773(f)(3) of the Act, stating that the statute does not require the Department to act only if it is able to determine that all inputs have been priced below COP. Rather, Timken argues, the Department may act when it has reasonable grounds to believe or suspect that an amount represented as the value of an affiliated-party input is less than the COP of the input. Moreover, the petitioner asserts, the Department acted reasonably in making its preliminary adjustment because it had limited data regarding NTN's affiliated-party inputs. Thus, the Department reasonably determined that the problem it had identified was likely to affect all models with affiliated-party inputs. Finally, Timken claims, for each TRB part number where the COP of the affiliated-party input was greater than the transfer price, the Department should increase COP and CV by an amount equal to the difference between transfer price and the COP.

Department's Position: We disagree with NTN that our adjustment to increase certain transfer prices to equal a market price is flawed. The Department tested affiliated-party inputs on a sample basis, and applied the results of the sample to the total population of affiliated-party transactions. Our adjustment relied on affiliated-party factors provided by NTN in its COP and CV database and it accounted for the fact that only certain inputs obtained from certain affiliates did not reflect a market value. The preamble of section 351.407 of the *Final Rule* at 27296 and 27413 leaves conducting an arm's-length test of the transfer price to the Department's discretion depending on the facts and circumstances of the case. In this instance, NTN provided the transfer prices and cost information for its major inputs. We examined this information on a sample basis and determined that the company's reported amounts were not less than its respective COP, as required by section 773(f)(3) of the Act. NTN also provided a market value for identical or similar inputs obtained from or sold to non-affiliated parties to establish that the transfer price was comparable to the market price. We then examined this information on a sample basis and determined that in certain instances the company's reported transfer prices did not reflect a market price, as required by section 773(f)(2) of the Act. As noted on page 24 of the June 13, 1997 cost verification report, NTN could not explain the difference between the transfer price and the market price. Thus, for the preliminary results we used the results of our samples to increase the manufacturing costs of the control numbers NTN identified as including related-party inputs.

We also disagree with NTN's contention that it is not appropriate for the Department to rely on section 773(f)(2) and (3) of the Act in this instance. We note that section 351.407 (a) and (b) of the *Final Rule*, at 27296 and 27413, sets forth certain rules that are common to the calculation of CV and COP. This section states that for the purpose of section 773(f)(3) of the Act the Department will determine the value of a major input purchased from an affiliated person based on the higher of: (1) the price paid by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost to the affiliated person of producing the major input. Furthermore, we have relied on this methodology in *Final Results of Antidumping Duty Administrative Review; Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada, 62 FR 18449, 18457 (April 15, 1997), AFBs VI at 2115, and the 92/93 TRB Final*. In each of these review's final results, the Department determined that in the case of a transaction between affiliated persons involving a major input, we will use the highest of the transfer price between the affiliated party, the market price between unaffiliated persons involving the major input, or the affiliated supplier's cost of producing this input.

Accordingly, for the final results we adjusted NTN's reported costs to account for the difference between the transfer price and market value for inputs purchased from affiliated parties based on the adjustment factor used in the preliminary results.

Comment 25: Petitioner states that the Department should ensure that the calculation of COP and CV includes certain non-operating expenses (*e.g.*, certain write-offs, depreciation of idle equipment, foreign currency gains and losses, etc.) NSK, on the other hand, contends that the exclusion of these non-operating expenses is permissible and is based on past Department practice.

Department's Position: For the final results we have relied on NSK's reported general expense factor that excludes certain non-operating income and expenses. We reviewed the information on the record and noted that NSK included depreciation of idle equipment in its COP. As for the other non-operating expenses identified by the petitioner, we note that NSK excluded them from the calculation of COP. However, these non-operating expenses are minor expenses. Thus, including them in the calculation of the dumping margin has a *de minimis* effect on the calculation of NSK's margin.

Comment 26: NSK argues that, in accordance with section 773(f) of the Act, the Department may only substitute affiliated-party costs for a respondent's reported transfer prices for affiliated-party inputs for purposes of sections 773(b) and 773(e) of the statute. However, NSK asserts, in the preliminary results the Department also substituted affiliated-party cost data when it determined whether the foreign like product was commercially comparable to each U.S. model, when it calculated a difference-in merchandise (difmer) adjustment for non-identical U.S. and home market matches, and when it recalculated NSK's reported U.S. inventory carrying costs prior to deducting this expense from CEP. Citing *Ad Hoc Comm, of AZ–NM–TX–FL Producers of Grey Portland Cement* v. *United States*, 13 F.3d 398, 401 (Fed. Cir. 1994), NSK contends that where Congress has included specific language in one section of the statute but has omitted it from another, related section of the same statute, it is generally presumed that Congress intended the omission. Therefore, NSK argues, because the statutory authority to determine whether the foreign like product is commercially comparable to the U.S. merchandise, to adjust NV for difmer, and to adjust CEP for U.S. inventory carrying costs is found in sections 771(16), 773(a)(6), and 772(d) of the Act, respectively, and not in

section 773(f), and because section 773(f) specifically limits the substitution of related-party costs to sections 773(b) and 773(e) of the statute, the antidumping law clearly does not permit the Department to use affiliated-party cost data to determine commercial comparability, to calculate the difmer adjustment, or to calculate an adjustment to CEP for inventory carrying costs. Therefore, NSK concludes, the Department should rely on NSK's reported cost data without regard to affiliated-supplier cost data in all instances except where specifically authorized by the statute.

NSK also asserts that the substitution of affiliated-party costs when determining commercial comparability constitutes an alteration of the Department's model-match methodology and prevents respondents from taking advantage of the Department's TRB Option II reporting methodology. NSK argues that it is not only difficult for a respondent to obtain affiliated-party cost data in time to integrate it into the model match, but it is often the case that an affiliated supplier refuses to provide the respondent with its cost data. As a result, NSK contends, through no fault of its own, a respondent's inability to obtain affiliated-party cost data may result in the inability to compare appropriate models and in the Department's use of total facts available.

Timken argues that, contrary to NSK's assertions, there is nothing in the statutory provisions cited by NSK which restricts the Department's discretion to use adjusted cost data for purposes other than sections 773(b) and 773(e) of the statute. For example, Timken maintains, section 771(16) of the Act, the ''model-match'' provision, only instructs the Department to select comparison merchandise that is ''like'' the U.S. subject merchandise in component material and uses and is ''approximately equal in commercial value,'' and does not specify the methodology by which the Department is to select the similar comparison merchandise or determine commercial comparability. Rather, citing the CAFC's decision in *Koyo Seiko* v. *United States*, 66 F.3d 1204 (Fed. Cir. 1995), Timken contends that, because Congress has implicitly delegated authority to the Department to determine and apply a model-match methodology, it was not inappropriate or unlawful for the Department to rely on affiliated-party cost data in making its commercial comparability determination for NSK.

Likewise, Timken argues that the provision which underlies the Department's difmer adjustment, section 773(a)(6) of the Act, does not detail the precise methodology that the Department must use to make such an adjustment. Hence, Timken states, Congress has again implicitly delegated authority to the Department to formulate an appropriate methodology and the Department reasonably determined that it was appropriate to use NSK's affiliated-party cost data when calculating this adjustment.

Timken also asserts that section 772(d) of the Act does not detail the methodology the Department is to use to calculate ICC adjustments to CEP but only lists the kinds of expenses that may be deducted from CEP. Therefore, Timken argues, Congress has once again implicitly delegated authority to the Department to select an appropriate methodology to calculate ICC and other expenses.

Finally, Timken argues, the Department's substitution of affiliated-party cost data when determining the commercial comparability of NSK's home market comparison merchandise is not likely to have a significant impact on the Department's model matches. Moreover, Timken concludes, not only are respondents required to supply data on multiple models for matching under the TRB Option II reporting methodology, but any respondent concerned about the potential effect on the model-match may revise its submission accordingly.

Department's Position: We agree with Timken. In our preliminary results for NSK, in accordance with section 773(f) of the Act, we recalculated NSK's reported TRB-specific COP and CV to include the COP of an affiliated-party input if the transfer price NSK reported for that input was less than the COP for that input. We note that COP and CV are composed of several components. The adjustment we made for NSK's affiliated-party inputs is actually an adjustment to its reported material costs. Because material costs are a component of the variable cost of manufacture (VCOM) and the total cost of manufacture (TCOM), and these in turn are components of COP and CV, when we adjusted NSK's reported material costs we not only recalculated its COP and CV, but we effectively recalculated VCOM and TCOM components of COP and CV as well.

NSK's assertions overlook the fact that the Department does not rely on a respondent's reported costs solely for the calculation of COP and CV. We also use cost information in a variety of other aspects of our margin calculations. For example, when determining the commercial comparability of the foreign like product in accordance with section 771(16) of the Act, it has been our long-standing practice to rely on the product-specific VCOMs and TCOMs for U.S. and home market merchandise. Likewise, when calculating a difmer adjustment to NV in accordance with section 773(b) of the Act, it has been our consistent policy to calculate the adjustment as the difference between the product-specific VCOMs for the U.S. and home market merchandise compared (*see, e.g., 92–93 TRB Prelim* at 57631). Furthermore, we have permitted respondents to calculate their reported ICC on the basis of TCOM.

As a result, if we determine a component of a respondent's COP and CV is distortive for one aspect of our analysis, it is reasonable to make the same determination with respect to those other aspects of our margin calculations where we relied on the identical cost data. To do otherwise would not only produce distortive results but would be contrary to our mandate to administer the dumping laws as accurately as possible.

NSK incorrectly asserts that section 773(f) of the Act specifically limits substitution of affiliated-party cost data to our analysis under sections 773(b) and 773(e). In fact, section 773(f) indicates that for purposes of subsections (b) and (e) we may substitute certain cost data but 773(f) does not prohibit this kind of substitution for other purposes. None of the sections of the statute (771(16), 772(d), and 773(a)(6)), for which NSK argues that we may not substitute affiliated-party costs, explicitly precludes the incorporation of corrected cost data. For example, the only guidance provided by section 771(16) of the Act is that the comparison merchandise be ''like'' the U.S. subject merchandise in terms of component material and uses and ''approximately equal in commercial value.'' Therefore, as Timken points out, section 771(16) of the Act does not specify a particular methodology for determining appropriate matches. Rather, the statute implicitly delegates the selection of an appropriate methodology to the Department.

Likewise, section 773(a)(6) of the Act grants us the same discretion to determine a suitable method to calculate a difmer adjustment and does not restrict our selection of an appropriate methodology to any particular approach. In addition, with respect to our recalculation of NSK's U.S. ICC, section 772(d) of the Act only specifies what adjustments are to be made to determine CEP and does not provide details regarding the precise

calculations for each particular adjustment.

Accordingly, we have not altered our model-match, difmer, or calculation of NSK's ICC for these final results.

5. Miscellaneous Comments Related to Duty Absorption, Sample Sales, Level of Trade, and the Arm's-Length Test

Comment 27: Timken contends that the Department's decision not to make an adjustment to CEP to account for indirect selling expenses and ICC incurred in Japan because expenses were not related specifically to commercial activity in the United States was incorrect. Timken argues that under pre-URAA law the Department deducted all selling expenses incurred in exporting to the United States and that the new law was not intended to change the Department's practice. Timken contends that the SAA clearly indicates that Congress did not intend to change the old law insofar as the Department's prior treatment of selling expenses was concerned. Further, Timken asserts that under the Department's new regulations (19 CFR 351.402(b), 62 FR at 27411), CEP should be adjusted if the expenses in question are related to the sale to the unaffiliated customer in the United States but not if they are only associated with the sale to the U.S. affiliate. Therefore, Timken argues that the Department should implement the SAA and the understanding Congress intended by deducting export selling expenses incurred in Japan from the calculation of CEP.

NTN, NSK, Koyo, and Fuji assert that the SAA fully supports the Department's decision not to adjust CEP to account for indirect selling expenses and ICC incurred in Japan and cite to section 772(d) of the Act which states that ''constructed export price will be calculated by reducing the price of the first sale to an unaffiliated customer in the United States by the amount of the following expenses (and profit) associated with economic activities occurring in the United States.'' SAA at 823. Further, respondents argue that the Department has used the same methodology in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825, 11834 (March 13, 1997) (*94–95 TRB Final*) and *AFBs VII* at 54043 and 54055, in which the Department concluded that export selling expenses are not specifically associated directly with commercial activity in the United States.

Department's Position: As we stated in the *94–95 TRB Final* at 11825, 11834 and *AFBs VI* at 2124, we will deduct from CEP only those expenses associated with economic activities in the United States which occurred with respect to sales to the unaffiliated U.S. customer. We found no information on the record for this review period to indicate that the indirect selling expenses and ICC for the respondents that were incurred in their respective home markets were incurred on sales to the unaffiliated customer in the United States.

In addition, it is clear from the SAA that under the new statute we should deduct from CEP only those expenses associated with economic activities in the United States. The SAA also indicates that ''constructed export price is now calculated to be, as closely as possible, a price corresponding to an export price between non-affiliated exporters and importers'' (*see* SAA at 823). Therefore, we have deducted from CEP only those expenses associated with commercial activities in the United States. Timken's reference to the SAA to support the proposition that the new law is not intended to change our practice in this regard is misplaced. Timken cites various provisions of the SAA which state that our practice with respect to ''assumptions'' would not change. The SAA explains that ''assumptions'' are selling expenses of the purchaser for which the foreign seller agrees to pay (*see* SAA at 824). Thus, if the home market producer agrees to pay for the affiliated importer's cost of advertising in the U.S. market, the Department would deduct such an expense as an ''assumption.'' It should be noted that assumptions are different than selling expenses incurred in the home market in selling to the affiliated importer, which are not incurred ''on behalf of the buyer'' (*i.e.,* the affiliated importer). Rather, the exporter incurs such expenses on its own behalf, and for its own benefit, in order to complete the sale to the affiliated importer (*see AFBs VI* at 2124). In this case respondent's reported selling expenses at issue were not associated with commercial activity in the United States. Rather, the expenses at issue were incurred prior to the commercial activity in the United States. Therefore, because the respondents' reported export selling expenses and ICC did not represent commercial activities performed in the United States, we did not deduct these expenses from CEP for these final results.

Duty Absorption

As indicated in the introduction to this notice, section 751(a)(4) of the Act provides for the Department, if requested, to determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter, and authorizes this type of investigation during an administrative review initiated two years or four years after publication of an order.

For transition orders as defined in section 751(c)(6)(C) of the Act (*i.e.,* orders in effect as of January 1, 1995), section 351.213(j)(2) of the Department's regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. *See* 62 FR 27296, 27394 (May 19, 1997). Although these antidumping regulations are not binding upon the Department for these TRB reviews, they do constitute a public statement of how the Department expects to proceed in construing section 751(a)(4) of the Act. This approach ensures that interested parties will have the opportunity to request a duty-absorption determination prior to the time of the sunset review of the order under section 751(c) of the Act on entries for which the second and fourth years following an order have already passed. Because this finding and order on TRBs have been in effect since 1976 and 1987, these are transition orders in accordance with section 751(c)(6)(C) of the Act; therefore, based on the policy stated above, the Department will consider a request for a duty-absorption determination during a review initiated in 1996 or 1998. On December 11, 1996, Timken requested that the Department determine, with respect to various respondents, whether antidumping duties had been absorbed during the POR. Since these reviews were initiated in 1996 and such a request was made, we have made a duty-absorption determination as part of these administrative reviews.

In our preliminary results of review we calculated the percentage of sales by a U.S. affiliate with dumping margins for each exporter. We stated that, with respect to those companies (with affiliated importer(s)) that had dumping margins, we would rebuttably presume that the duties will be absorbed for those sales which were dumped. Subsequent to the preliminary results, we received comments regarding our duty-absorption determination but have

not changed our presumption for these final results.

Comment 28: NSK, NTN, and Koyo claim that the Department has interpreted section 351.213(j) of its regulations incorrectly as providing for duty-absorption inquiries in the second and fourth years following a sunset review after which an order is continued and in periods such as the seventh and ninth reviews for transition orders. Citing the principle of statutory construction ''*expressio unius est exclusio alterius*,'' wherein there is an inference that all omissions should be understood as exclusions, respondents conclude that the lack of explicit Congressional approval for duty-absorption inquiries for the latter transition orders shows that Congress did not intend for duty-absorption inquiries to be initiated more than four years after publication of an antidumping order. Finally, respondents contend that the Department is incorrect in justifying the duty-absorption inquiry by considering the TRB order and finding as transitional in accordance with section 751(c)(6)(C) of the Act. According to respondents, section 751(c)(6)(C) of the Act only applies to ''sunset'' reviews.

Timken claims that not only does narrowing the applicability of the duty-absorption inquiries to only the second and fourth years of sunset reviews unduly limit the effectiveness of the statute, but there is no indication that sections 751(a)(4) or 751(c)(6)(D) of the Act intended such a narrow application. Timken's response to the legal principle of ''all omissions should be understood as exclusions'' is that it has little force in the administrative setting because deference is granted to an agency's interpretation of a statute, unless Congress has directly spoken to the question at issue (citing *Mobile Communications Corp. Of America* v. *F.C.C.*, 77 F.3d 1399, 1404–1045). Timken further argues that ''whether the specification of one matter means the exclusion of another is a matter of legislative intent for which one must look at the statute as a whole'' (citing *Massachusetts Trustees of Eastern Gas & Fuel Associates* v. *United States*, 312 F.2d 214, 220 (1st Cir. 1963) (citing authority), *aff'd*, 377 U.S. 235 (1964)).

Department's Position: As for the time frame in which we are conducting these reviews, section 351.213(j)(1) of our regulations, in accordance with section 751(a)(4) of the Act, provides for the conduct, upon request, of duty-absorption inquiries in reviews initiated two and four years after the publication of an antidumping duty order (*see e.g., AFBs VII* at 54043 and 54044). The preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year (*see Final Rule* at 7317). Because the TRB order and finding have been in effect since 1987 and 1976, respectively, these are transitional in accordance with section 751(c)(6)(C) of the Act (*see e.g., AFBs VII* at 54044 and 54075). This being a review initiated in 1996 and a request having been made, we have made duty-absorption determinations as part of these administrative reviews.

Comment 29: Respondents argue that measuring duty absorption based on information not known until the completion of an administrative review is unfair. More specifically, they claim that the nature of the review process prevents them from determining the U.S. price increase necessary to pass dumping duties on to customers because the ultimate liability is not determined until the end of a review. Respondents argue further that, other than dumping duties paid at the time of entry, they have no means of estimating the price increases necessary to pass dumping duties on to the customers.

Finally, respondents argue that the Department cannot presume ''rebuttably'' that duty absorption on sales to a U.S. affiliate exists if the record does not contain evidence of the U.S. purchaser's assumption of liability for ultimate assessment. Respondents claim that the Department's rebuttable presumption ignores commercial reality in that no U.S. buyer would agree to assume liability for an unascertainable amount of duties. Respondents claim that the Department has not provided any reason for adopting the presumption of duty absorption and that the presumption is not allowable by law.

Timken agrees with the Department's approach in using the rebuttable presumption that the duties for sales that were dumped will be absorbed. Timken argues that the Department's examination of whether duty absorption occurred by reviewing data on the volume of dumped imports and dumping margins follows the guidelines of the SAA. Timken argues that the Department's decision was reasonable, given the lack of record evidence that the first unrelated customer will be responsible for paying the duty that is ultimately assessed, the consistency of the Department's dumping determinations, and the fact that the Department gives the respondents the opportunity to provide evidence that the unaffiliated purchasers will pay the assessed duty.

Department's Position: We agree with Timken. An investigation as to whether there is duty absorption does not simply involve publishing the margin in the final results of review. As the Department noted in the preliminary results of these reviews, the determination that duty absorption exists is also based on the lack of any information on the record that the first unaffiliated customer will be responsible for paying the duty that is ultimately assessed. Absent such an irrevocable agreement between the affiliated U.S. importer(s) and the first unaffiliated customer, there is no basis for the Department to conclude that the duty attributable to the margin is not being absorbed (*see, e.g., AFBs VII* at 54043 and 54044).

As was the case with the most recently completed review of AFBs, this is an instance where the existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty. As such, the burden of producing evidence to the contrary shifts to the respondent (*see Creswell Trading Co., Inc.* v. *United States*, 15 F.3d 1054 (CAFC 1994)). Here, the respondents have failed to place evidence on the record, despite being given ample time to do so, in support of their position that they and their affiliated importer(s) are not absorbing the duties (*see, e.g., AFBs VII* at 54043 and 54044).

Comment 30: Koyo and NSK argue that, even if a duty-absorption inquiry is lawful, the Department's duty-absorption methodology fails to measure duty absorption on respondents' U.S. sales database as a whole. Respondents claim that by not considering sales made at non-dumped prices the Department fails to get an accurate measure of whether duty absorption has occurred.

Timken responds that taking into consideration negative margins in a duty-absorption inquiry may indirectly lead to increased levels of dumping. Timken asserts that while sales priced above ''dumping levels'' may in fact allow an importer to engage in duty absorption, this does not change the likelihood that dumping will increase upon revocation of an order.

Department's Position: We disagree with respondents that we should aggregate negative and positive margins in our duty-absorption determination. The Department treats so-called ''negative'' margins as being equal to zero in calculating a weighted-average margin because otherwise exporters would be able to mask their dumped

sales with non-dumped sales (*see Final Determination of Sales at Less Than Fair Value; Professional Electric Cutting Tools and Professional Electric Sanding/Grinding Tools from Japan*, 58 FR 30149 (May 26, 1993)). It would be inconsistent on one hand to calculate margins using only positive-margin sales, which is the Department's practice, and then argue, in effect, that there are no margins for duty-absorption purposes because a deduction from the total duties determined should be made for sales without margins (*see AFB VII* at 54043 and 54076, citing *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 62 FR 18744, 18745 (April 17, 1997)). However, non-dumped sales affect the percentage of sales through affiliated importers which are dumped and therefore affect the results of the absorption inquiry.

Level of Trade (LOT)

As set forth in section 773(a)(7) of the Act and in the SAA at 829–831, to the extent practicable we have determined NV based on sales at the same LOT as the LOT of the EP and CEP sales. When we were unable to find comparison sales at the same LOT as the EP or CEP sales, we compared the U.S. sales to sales at a different LOT in the comparison market. We determined the LOT of EP sales on the basis of the starting prices of sales to the United States. We based the LOT of CEP sales on the price in the United States after making the CEP deductions under section 772(d) of the Act but before making the deductions under section 772(c) of the Act. Where home market prices served as the basis of NV, we determined the NV LOT based on starting prices in the NV market. Where NV was based on CV, we determined the NV LOT based on the LOT of the sales from which we derived SG&A and profit for CV. In order to determine the LOT of U.S. sales and comparison sales, we reviewed and compared distribution systems, including selling functions, classes of customer, and the extent and level of selling expenses for each claimed LOT. Customer categories such as distributor, original equipment manufacturer (OEM), or wholesaler are commonly used by respondents to describe LOTs but are insufficient to establish a LOT. Different LOTs necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the LOTs. Different LOTs are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them. *See AFBs VI* at 2105.

As in the preliminary results, where we established that the comparison sales were made at a different LOT than the sales to the United States, we made a LOT adjustment if we were able to determine that the differences in LOTs affected price comparability. We determined the effect on price comparability by examining sales at different LOTs in the comparison market. Any price effect must be manifested in a pattern of consistent price differences between foreign market sales used for comparison and foreign market sales at the LOT of the export transaction. To quantify the price differences, we calculated the difference in the average of the net prices of the same models sold at different LOTs. We used the average difference in net prices to adjust NV when NV was based on a LOT different from that of the export sale. If there was a pattern of no price differences, the differences in LOTs did not have a price effect and, therefore, no adjustment was necessary.

Section 773 of the Act provides for an adjustment to NV when NV is based on a LOT different from that of the CEP if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in LOTs between the CEP and NV affects the comparability of their prices (*see, e.g., AFBs VII* at 31566 and 31572). This latter situation can occur when there is no home market LOT equivalent to the U.S. LOT or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(a)(7)(B) of the Act and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price used to calculate CEP.

The CEP offset is not automatically granted each time we use CEP (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997)). The CEP offset is made only when the LOT of the home market sale is more advanced than the LOT of the CEP sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

We determined that for respondents Koyo and NSK there were two home market LOTs and one U.S. LOT (*i.e.*, the CEP LOT). For Fuji we determined that one LOT existed in the home market and three distinct LOTs existed in the U.S. market (the CEP LOT and two EP LOTs). Because there was no home market LOT equivalent to any of the U.S. LOTs for Fuji, NSK, and Koyo, and because NV for these firms represented a price more remote from the factory than the CEP, for these firms we made a CEP offset adjustment to NV in our CEP comparisons (*see Certain Internal-Combustion Industrial Fork Lift Trucks from Japan; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 5592, 5608 (February 6, 1997)).

We determined that for MC a single LOT existed in the third-country market and that a single EP LOT existed in the U.S. market. Based on our comparison of the U.S. EP LOT to the third-country LOT, we determined that the third-country LOT was the same as the EP LOT. As a result, we made no LOT adjustment.

For NTN we found that there were three home market LOTs and two (EP and CEP) LOTs in the United States. Because there were no home market LOTs equivalent to NTN's CEP LOT, and because NV for NTN represented a price more remote from the factory than the CEP, we made a CEP offset adjustment to NV in our CEP comparisons. We also determined that NTN's EP LOT was equivalent to one of its LOTs in the home market. Because we determined that there was a pattern of consistent price differences, we made a LOT adjustment to NV for NTN in our EP comparisons where the U.S. EP sale matched to a home market sale at a different level of trade.

Comment 31: Koyo, NTN, and NSK contend that the Department's practice with regard to LOTs effectively precludes a LOT adjustment to NV for CEP comparisons and is thus contrary to law and Congressional intent.

NSK contends that there is no statutory requirement that a LOT adjustment be based on the full difference in prices between the home market comparison LOT and the HM LOT equivalent to the CEP LOT and suggests that a partial LOT adjustment is contemplated by the statute. NSK contends that the plain reading of the statute requires that the Department must adjust NV for CEP sales for the difference between price levels at the LOTs which do exist in the home market. Therefore, NSK argues the Department should at least make a partial LOT adjustment when comparing NSK's CEP sales to home market aftermarket (AM) sales which, it contends, are more advanced than HM OEM sales because prices are higher at

the HM AM LOT. Finally, NSK contends that the Department should grant NSK a partial LOT adjustment equal to the price difference between home market AM sales and OEM sales.

Koyo asserts that it and other respondents have proposed to the Department alternative methods by which the Department could construct an appropriate home market LOT by deducting from NV those home market expenses that correspond to the expenses that are deducted from CEP, but that the Department has failed to provide a reasonable explanation for rejecting the proposals.

NTN states that the Department should make a price-based LOT adjustment when the LOT of the CEP sale is different from the LOT of the comparison foreign like product, and that the LOT of the CEP sale should be based on the sale to the first unaffiliated U.S. customer prior to the deduction of expenses pursuant to section 772(d) of the Act. NTN asserts that such an approach is not only consistent with the Department's model-match methodology, but evidence on the record demonstrates that NTN's performance of different selling activities at each LOT affected price comparability. NTN argues that it is unreasonable for the Department to refuse to make a price-based adjustment when there are significant differences in prices between home market LOTs and U.S. sales are matched to home market sales at LOTs different than the U.S. sale.

Timken contends that under section 773(a)(7)(A)(ii) of the Act, Congress intended for a LOT adjustment to be made only if it was ''demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOT's in the country in which normal value is determined.'' Timken contends that the adjustment cannot be made unless a LOT equivalent to the U.S. LOT exists in the home market. Therefore, Timken claims, if the data available to the Department does not allow the demonstration required by section 773(a)(7)(A)(ii) of the Act, the statute does not permit a LOT adjustment and allows only a CEP offset.

Further, Timken argues that NSK's assertion that the Department could have calculated a ''partial LOT adjustment'' for the difference between the CEP LOT and the home market AM LOT on the basis of a consistent pattern of price differences between the home market OEM and AM LOTs is unfounded. Timken contends that where there is no home market LOT comparable to the U.S. LOT, the statute does not authorize the use of price differences between different home market LOTs to substitute for calculated LOT adjustments. As a result, Timken concludes, the Department should reject NSK's claim for the same reasons it rejected the identical argument in *AFBs VII* at 54043 and 54056–57.

Department's Position: We disagree with respondents. Our methodology does not preclude LOT adjustments to NV for CEP sales. Rather, we do not make a LOT adjustment where the facts of the case do not support such an adjustment. Based upon our examination of the information on the record, for this review we found that no respondent had a home market LOT equivalent to its CEP LOT. As a result, because we lacked the information necessary to determine whether there is a pattern of consistent price differences between the relevant LOTs, we did not make a LOT adjustment for any of the respondents when we matched a CEP sale to a sale of the foreign like product at a different LOT. We disagree with NSK that we should make a ''partial LOT adjustment'' because there is no provision in the statute for making such a partial adjustment. We make a LOT adjustment when there is ''any difference between the export price or constructed export price and the [NV] that is shown to be wholly or partly due to a difference in LOT between the export price or constructed export price and the normal value.'' *See* section 773(a)(7)(A) of the Act. While NSK has interpreted the phrase ''wholly or partly'' to justify a partial LOT adjustment, we interpret this phrase to mean that we may make a LOT adjustment only if part of the differences in prices between LOTs is attributable to the difference in LOT. In other words, we need not demonstrate that no factor other than LOT influenced a pattern of price differences. Thus, we do not read into this language of the statute the authority to make a LOT adjustment between two home market LOTs where neither level is equivalent to the LOT of the U.S. sale.

We also disagree with Koyo that we should adopt one of the proposed alternative methods by which we would ''construct'' home market LOTs. We base home market LOTs on a respondent's actual experience in selling in the home market. Therefore, because there is no statutory basis for us to ''construct'' levels in the home market or elsewhere, we have not used Koyo's claimed constructed NV LOT in order to calculate a LOT adjustment for Koyo's CEP sales (*see AFBs VII* at 54040, 54047).

Furthermore, we disagree with NSK that its CEP sales should be matched to its home market OEM sales before they are matched to home market AM sales. Based upon our examination of the information on the record, we found that no home market LOT for NSK had more selling functions than another home market level. Rather, the home market LOTs each involved different degrees of various selling functions. We conclude that, for NSK and for respondents generally, while the reported home market LOTs are different from one another, no home market LOT is more advanced than any other based upon the evidence on the record. We also disagree with NSK's assertion that, because its OEM prices are generally lower than its AM prices, its OEM LOT is less advanced than the distributor/aftermarket LOT. We determine whether one LOT is more advanced than another on the basis of the selling functions performed by a respondent with respect to the two LOTs. NSK's home market OEM and AM sales are more advanced than the LOT of the CEP sales because comparatively fewer selling functions are associated with the CEP sales than are associated with sales to either of the other LOTs. Therefore, we have not altered our LOT methodology.

Finally, we disagree with NTN. The definition of ''constructed export price'' contained at section 772(d) of the Act indicates clearly that we are to base CEP on the U.S. resale price, as adjusted for U.S. selling expenses and profit. As such, the CEP reflects a price exclusive of all selling expenses and profit associated with economic activities occurring in the United States. *See* SAA at 823. These adjustments are necessary in order to arrive at, as the term CEP makes clear, a ''constructed'' EP. The adjustments we make to the starting price, specifically those made pursuant to section 772(d) of the Act (''Additional Adjustments for Constructed Export Price''), normally change the LOT. Accordingly, we must determine the LOT of CEP sales exclusive of the expenses (and associated selling functions) that we deduct pursuant to this section (*see, Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Administrative Review,* 62 FR 18475, 18480 (April 15, 1997)). As stated earlier, because none of NTN's home market LOTs were equivalent to the LOT of its CEP sales, we were unable to make a LOT adjustment for such sales.

Comment 32: NTN contends that the Department should have relied on its U.S. and home market selling expenses,

which were based on LOT, as reported, instead of reallocating these selling expenses without regard to LOT. NTN argues that the Department incorrectly relied on the CIT's decision in *The Timken Company* v. *United States,* Slip Op. 96–86 (May 31, 1996)(*Timken 1*) as the basis for its reallocation because the standards set forth in the *Timken 1* decision are not only met by NTN's allocated expenses, but its original reporting methodology is less distortive than the Department's reallocation without regard to LOT. NTN further asserts that the Department's reliance on *Timken 1* is misplaced due to the fact that the Department has previously indicated that NTN's reporting methodology is within the parameters of the *Timken 1* determination. For example, NTN asserts, in *92/93 TRB Final* at 57629 and 57636, the Department determined that NTN's LOT-based reporting was not acceptable based ''solely on our discovery of a discrepancy in NTN's reported total U.S. sales value for scope merchandise during the POR.'' NTN maintains that it is clear from the language of the determination that the only reason the Department rejected NTN's reported expenses was an alleged discrepancy in reported numbers. NTN claims that not only is the reporting methodology in this review identical to that in the above-cited final results, but the Department found no discrepancies in this methodology during its U.S. sales verification.

In addition, NTN contends that the Department determined that different LOTs existed in the U.S. and Japanese markets for its sales (*see TRB Prelim* at 47458–9), and that the decision to allocate certain U.S. and home market expenses without regard to LOT voids the LOT determination made in the preliminary results, insofar as the effect of the different LOTs on price is lessened by this reallocation. Furthermore, NTN argues that the Department's mandate is to administer the antidumping laws as accurately as possible (*see Bowe-Passat* at 335 and 340). Because the Department's reallocation of these expenses without regard to LOT eliminates the affect of LOT on price, NTN asserts, the Department's decision to reallocate these expenses is a direct violation of this mandate. Therefore, NTN concludes, the Department should rely on the LOT-specific expense allocation ratios and its LOT-specific expenses as originally reported in its questionnaire response.

Timken contends that in *Timken 1* the CIT stated that the issue raised by NTN's LOT-specific expense allocation methodology was ''whether the reported expenses demonstrably vary according to levels of trade.'' Timken argues that while NTN asserts that its LOT-specific allocation methodology meets this standard, NTN provides no explanation on the record of how its methodology met this standard nor is there any other evidence on the record supporting NTN's methodology.

Timken further argues that in *Timken 1,* after identifying the issue in question, the CIT remanded the case to the Department to determine whether NTN had demonstrated that its expenses varied according to LOT. However, Timken states, while the Department was working on its response to that remand, it issued its 1992–93 final results, the final results cited by NTN, in which it rejected NTN's allocation of U.S. expenses due to a discrepancy in sales value. Timken states that it was only after publication of the 1992–93 final results for NTN that the Department completed its remand results pursuant to *Timken 1* and determined that the record lacked the evidence necessary to demonstrate that NTN's expenses varied by LOT. *See The Department's Final Results of Redetermination Pursuant to Court Remand* (December 17, 1996), at 9. Timken contends that, given that these remand results have been affirmed by the CIT (*see Timken* v. *United States,* Slip Op. 97–87 (July 3, 1997), and that the Department has requested a remand in the litigation arising from the 1992–93 final results to consider this issue in light of its remand redetermination pursuant to *Timken 1* and the CIT's affirmation thereof, the Department correctly rejected NTN's LOT-specific expense allocations in this instant review.

Department's Position: We agree with Timken in part. We have determined that, for a majority of the expenses in question, NTN's LOT-specific selling expense allocation methodology bears no relationship to the manner in which NTN actually incurred these selling expenses. In *Timken 1* the CIT ordered the Department to accept NTN's LOT-specific allocations and per-unit LOT expense adjustment amounts only if NTN's expenses demonstrably varied according to LOT. By ordering us to ascertain whether these expenses actually varied according to LOT, the CIT, in essence, indicated that NTN's use of its calculation of LOT-specific per-unit expense adjustments did not necessarily mean that NTN incurred the expenses differently due to differences in LOTs. Rather, additional evidence must also exist which demonstrates that NTN actually sold differently to each LOT by performing different activities/functions or by performing the same activities/functions to a different degree when selling to each LOT. In accordance with this order, in our remand results pursuant to *Timken 1* we did not allow NTN's allocation of its expenses by LOT due to the lack of quantitative and narrative evidence on the record demonstrating that the expenses in question demonstrably varied according to LOT. In the instant review, we applied the same standards articulated by the CIT in *Timken 1.* In other words, we have examined the record to determine if evidence exists demonstrating that those home market and U.S. expenses NTN allocated by LOT did demonstrably vary according to LOT.

For this review NTN provided two exhibits which outlined its derivation of LOT-specific per-unit expense adjustments for certain of its U.S. and home market expenses. Exhibit C–7 detailed NTN's calculations of LOT-specific per-unit expense adjustment ratios for its U.S. inland freight (warehouse to customer) expenses, other U.S. transportation expenses, U.S. Customs duty, U.S. packing material, overhead, and labor expenses, U.S. advertising expenses, U.S. inventory carrying costs, and other U.S. indirect selling expenses. Exhibit B–4 detailed NTN's LOT-specific per-unit adjustment ratios for its home market pre-sale and post-sale freight expenses, home market advertising expenses, home market packing labor and material expenses, home market technical service expenses, and other home market indirect selling expenses. Both exhibits indicate that, except for certain U.S. and home market packing material and packing labor expenses, none of the expenses were unique to a single LOT in that NTN incurred each of the above expenses when selling to each LOT. However, rather than calculate a single allocation ratio to be applied to all sales, NTN instead allocated a portion of each total expense amount to each LOT such that it was able to derive LOT-specific allocation ratios. When applied to the reported unit prices, NTN's LOT-specific allocation ratios resulted in the calculation of significantly different per-unit expense adjustment amounts such that NTN actually reported an expense adjustment amount for a TRB sale to one LOT which was significantly different than the amount of the same expense it reported for a sale of the identical TRB to another LOT.

NTN determined the portion of each of the above expenses (except for certain U.S. and home market packing material and labor expenses) to be allocated to

each LOT by means of allocation methodologies which were based on (1) the differences in total sales value for each LOT, (2) the differences in the total number of invoices generated for each LOT, (3) the differences in the total number of employees involved in sales at each LOT, or (4) a combination of the above. As a result, these differences caused the differences in the expense amounts NTN reported for each LOT and in its LOT-specific ratios.

While the record for these reviews contains detailed worksheets demonstrating NTN's allocation methodologies, it does not contain any narrative or quantitative evidence demonstrating why or to what degree a TRB sale to one LOT would generate a greater or lesser amount of the above expenses than a sale of the same TRB to another LOT. Rather, NTN's sole support for its allocations are the allocations themselves. While we recognize that total sales values, the total number of invoices, and even the total number of employees may vary according to LOT, these aggregate differences do not demonstrate whether NTN sold differently to its LOTs and fail to indicate what activities or functions NTN may have performed differently when selling to each LOT such that it actually incurred per-unit expense amounts differently due to differences in LOTs. The record, therefore, lacks the evidence necessary to demonstrate that all of NTN's expenses varied according to LOT. Therefore, for these final results, we have not accepted NTN's LOT-specific allocations and its use of LOT-specific adjustment ratios for its U.S. inland freight (warehouse to customer) expenses, other U.S. transportation expenses, U.S. Customs duty, U.S. advertising expenses, U.S. inventory carrying costs, and other U.S. indirect selling expenses, or for its home market pre-sale and post-sale freight expenses, home market advertising expenses, home market technical service expenses, and other home market indirect selling expenses. Rather, we have recalculated NTN's allocation ratios such that we derived a single ratio applicable to all sales regardless of LOT. We then applied these recalculated allocation ratios to NTN's reported U.S. and home market unit prices to calculate per-unit expense adjustment amounts which did not vary by the LOT to which the U.S. or home market sale was made.

We disagree with Timken that all of NTN's U.S. and home market expenses should be recalculated without regard to LOT. In our preliminary analysis memorandum (*see* Preliminary Analysis Memorandum for NTN, September 2, 1997, attachments I and II), we did, in fact, recalculate NTN's U.S. selling expenses without regard to LOT. However, in contrast to the above, for certain of NTN's U.S. packing material and packing labor expenses, exhibit C–7 of NTN's response indicated that NTN incurred these expenses only when selling to one specific U.S. LOT. In addition, NTN's narrative explanation clearly indicated that certain of NTN's packing expenses individually differed by LOT. Because these expenses were unique to a single LOT, NTN (1) allocated each total expense amount solely to this LOT, (2) calculated a single allocation ratio for this LOT, and (3) applied this ratio only to those U.S. sales at this LOT. NTN's response clearly indicates that these expenses demonstrably varied according to LOT (*see* NTN questionnaire response, January 27, 1997, at exhibit C–7) (NTN Response). Furthermore, in the instant review, we verified these expenses in detail and concluded that NTN's allocation methodology regarding U.S. packing material and U.S. packing labor was accurate (*see* NTN U.S. Report, at 13). Therefore, for our preliminary results we applied our recalculated ratios for certain of NTN's U.S. packing and U.S. labor expenses only for sales to the one LOT for which these expenses were incurred.

In addition, after further review of the record, we have also determined that NTN's home market packing labor and packing material expenses demonstrably varied according to LOT. Section A and exhibit B–4 of NTN's response clearly demonstrate that different methods of packing are required depending upon LOT. As indicated above, NTN has allocated all of its home market expenses by LOT, but has not provided record evidence (except for home market packing) demonstrating that they were incurred differently by LOT. Therefore, for these final results we have only accepted NTN's allocation for home market packing expenses according to LOT.

Therefore, with the exception of NTN's home market and U.S. packing expenses, due to the lack of quantitative and narrative evidence on the record demonstrating that certain of NTN's expenses demonstrably varied according to LOT, for these final results we have reallocated these expenses without regard to LOT.

Arm's Length Test

Comment 33: NTN asserts that the Department's 99.5 percent arm's-length test is not a reasonable basis for determining whether affiliated-party sales were at prices comparable to those to unaffiliated parties. NTN argues that in applying the arm's-length test the Department only considers the average percentage difference in pricing between affiliated and unaffiliated-party sales and ignores other factors which greatly influence price such as the terms and quantities of each affiliated-party sale. NTN further contends that the Department's 99.5 percent threshold is not really a ''test'', since it fails to provide an objective standard to determine whether affiliated sales are at arm's-length. Instead, NTN claims, the test weighs sales against an average which does not reflect the full range of prices paid in the transactions examined. Therefore, NTN asserts, the use of the 99.5 percent figure as a baseline to decide if sales are at arm's length does not address the fact that some arm's-length sales fall outside this narrow range. As a result, NTN claims, the percentage used would better reflect the range of arm's-length prices if it were lowered to a 95 percent threshold.

Timken claims that in accordance with section 773(a)(1)(B) of the Act, the Department properly excluded those home market sales to affiliated parties which were not at arm's length. Timken argues that not only is it wholly within the Department's discretion to derive a methodology to determine whether home market sales to affiliates are at arm's length, but NTN has provided no evidence supporting its claim that the Department's 99.5 test was contrary to law.

In addition, Timken points out, the record indicates that one of the factors suggested by NTN for inclusion in the 99.5 percent test, terms of sale, was reported the same for all of NTN's home market sales. Thus, Timken concludes, even if the Department agreed with NTN, the adoption of NTN's suggestion would have no effect.

Department's Position: We disagree with NTN. Our 99.5 percent arm's-length test is a reasonable method for establishing a fair basis of comparison between affiliated and unaffiliated-party sales. NTN asserts that additional factors, such as quantity and payment terms, should be taken into consideration when comparing affiliated and unaffiliated-party sales, but fails to establish that the Department must abandon its existing test. NTN also argues that our use of the 99.5 percent threshold is distortive but provides no quantitative evidence demonstrating that a lowering of the threshold would yield more accurate results. Furthermore, the CIT has upheld the validity of our arm's-length test on numerous occasions. For example, in *Usinor Sacilor* v. *United States,* 872 F.

Supp 1000 (1994), the CIT clearly stated that ''[g]iven the lack of evidence showing any distortion of price comparability, the court finds application of Commerce's arm's-length test reasonable.'' Likewise, in *Micron Technology, Inc.* v. *United States,* 893 F. Supp 21, 38 (CIT 1995), because the CIT found that the plaintiff/respondent failed to ''demonstrate that Commerce's customer-based arm's-length is unreasonable'' and failed to ''point to record evidence which tends to undermine Commerce's conclusion,'' the CIT sustained the 99.5 percent arm's-length test, given a lack of evidence showing a distortion of price comparability. Further, in *NTN Bearing Corp. of America, American NTN Bearing Manufacturing Corp., and NTN Corp.* v. *United States,* 905 F. Supp. 1083 (CIT 1995), NTN argued, as here, that there were numerous factors influencing the price of a related-party transaction and the Department cannot make a meaningful price comparison without examining them. The CIT disagreed with NTN and stated that, in accordance with section 19 CFR 353.45(a) of our regulations, the Department has broad discretion in devising an appropriate methodology to determine whether particular related-party prices are, in fact, comparable to unrelated-party prices.

Therefore, because NTN has failed to demonstrate that the 99.5 percent threshold produces distortive results and that the Department's methodology is unreasonable, in accordance with the CIT decisions cited above, we have not altered our 99.5 percent arm's-length test for these final results.

Sample Sales

On June 10, 1997, the CAFC held that the term ''sold'' requires both a transfer of ownership to an unrelated party and consideration. *NSK Ltd.* v. *United States,* 115 F.3d 965, 975 (Fed. Cir. 1997) (*NSK*). The CAFC determined that samples which NSK had given to potential customers at no charge and with no other obligation lacked consideration. Moreover, the CAFC found that, since free samples did not constitute ''sales,'' they should not have been included in calculating U.S. price.

In light of the CAFC's opinion, we have revised our policy with respect to samples. The Department will now exclude from its dumping calculations sample transactions for which a respondent has established that there is either no transfer of ownership or no consideration.

This new policy does not mean that the Department automatically will exclude from analysis any transaction to which a respondent applies the label ''sample.'' In fact, for these reviews we determined that there were instances where it is appropriate not to exclude such alleged samples from our dumping analysis. It is well-established that the burden of proof rests with the party making a claim and in possession of the needed information (*see, e.g., NTN Bearing Corporation of America* v. *United States,* 997 F.2d 1453, 1458–59 (CAFC 1993), (citing *Zenith Elecs. Corp.* v. *United States,* 988 F.2d 1573, 1583 (CAFC 1993), and *Tianjin Mach. Import & Export Corp.* v. *United States,* 806 F. Supp. 1008, 1015 (CIT 1992)). As discussed below, one respondent failed to demonstrate that its claimed sample sales lacked consideration. When respondents failed to support their sample claim, we did not exclude the alleged samples from our margin analysis.

With respect to HM sales, in addition to excluding sample transactions which do not meet the definition of ''sales,'' we may exclude sales designated as samples from our analysis, pursuant to section 773(a)(1) of the Act, when a respondent has provided evidence demonstrating that the sales were not made in the ordinary course of trade, as defined in section 771(15) of the Act.

With regard to assessment rates, in order to ensure that we collect duties only on sales of subject merchandise, we included the entered values and quantities of the sample transactions in our calculation of the assessment rates and set the dumping duties due for such transactions to zero. We have done this because U.S. Customs will collect the *ad valorem* (or per-unit, where applicable) duties on all entries of subject merchandise whether or not the merchandise was a sample transaction. However, to ensure that sample transactions do not dilute the cash deposit rates, we excluded both the calculated U.S. prices and quantities for sample transactions from our calculation of the cash deposit rates.

Comment 34: Timken argues that for these final results the Department should include in NSK's U.S. database its zero-priced sample sales. Timken contends that although the CAFC's decision in *NSK* held that zero-priced sample sales which lacked consideration did not constitute ''sales'' for purposes of the antidumping law, the decision did not establish a *per se* exclusion for all zero-priced sample sales. Timken argues that such sales do not qualify for automatic exclusion from the U.S. database because the burden is on the respondent to demonstrate that sample sales did not involve the transfer of ownership or that they lacked consideration. Timken maintains that NSK did not provide information for the record affirmatively demonstrating that its U.S. sample sales were transferred without consideration or ownership. Timken further argues that the CIT in *J.C. Hallman Mfg. Co.* v. *United States,* 13 CIT 1073, 1076, 728 F. Supp. 751, 753 (1989) (*J.C. Hallman*) stated that samples must be reported under a ''temporary importation bond.'' Timken asserts that the CIT in that case also held that in the absence of such a bond, the Department has no way of knowing that the merchandise is not imported for sale. Timken contends that because NSK has provided no information demonstrating whether its zero-priced sample sales were imported under a temporary importation bond, the Department should reverse its preliminary determination and include NSK's zero-priced sample sales in its margin calculations for these final results.

NSK responds that the Department correctly excluded zero-priced U.S. sample sales from its analysis. NSK contends that Timken's reliance on *J.C. Hallman* is misplaced because this case predated the court's *NSK* decision and because the CIT, in its omission of any reference to *J.C. Hallman* in its decision, effectively determined that the case was irrelevant for its decision. Furthermore, NSK argues, the only standard set forth by the CAFC in *NSK* is whether a sale occurred (*i.e.*, involved consideration). NSK contends that as long as sample sales lacked consideration, then all other issues, such as whether the recipient took title to the merchandise, are irrelevant. NSK further argues that it reported its free samples as outside the ordinary course of trade and indicated that zero-priced samples were not sales because they lacked consideration. Because the Department did not ask any questions regarding the company's sample sales in its supplemental questionnaire, NSK argues, the Department concluded that it had all necessary information to determine whether or not zero-priced sample sales should be considered ''sales'' for purposes of its analysis.

Department's Position: We disagree with petitioner. The record indicates that NSK's reported sample transactions did not involve consideration (*see, e.g.*, NSK Section C Questionnaire Response, January 27, 1997, at 4). Accordingly, pursuant to the CAFC's decision in *NSK,* we have excluded NSK's reported U.S. sample sales from the U.S. sales database.

Comment 35: NTN argues that the Department should exclude from its margin calculations those sample sales

it made in both the U.S. and home markets. With respect to its home market database, NTN asserts that its home market sample sales which it claims are outside the ordinary course of trade should be excluded from margin calculations in accordance with section 773(b) of the Act and in accordance with the CIT's decision in *NSK* v. *United States,* Slip Op. 97–74 (June 17, 1997), in which the CIT held that the Department improperly included NTN's sample sales.

NTN also asserts that its U.S. sample sales should be excluded from the Department's analysis in accordance with the CAFC's ruling in *NSK,* in which the CAFC ordered that zero-priced sample sales be excluded for purposes of calculating margins.

Timken responds that the CAFC in *NSK* did not establish a *per se* exclusion for so-called sample sales. Rather, Timken claims, the CAFC held that sales which lacked consideration did not constitute sales for purposes of the antidumping law. Timken notes that the Department's preliminary margin program at lines 92 and 704 already excludes zero-priced sales, and claims that the *NSK* decision does not support the exclusion of sales NTN alleges are samples. Finally, Timken argues that NTN has not adequately demonstrated that its home market sample sales are outside the ordinary course of trade, and that such sales therefore do not warrant exclusion from the home market database.

Department's Position: We disagree with NTN. We examined the record to determine whether NTN's U.S. sample sales lacked consideration, and were unable to find any information whatsoever in either NTN's narrative or sales database regarding sample transactions. As noted above, the party in possession of the information has the burden of producing that information, particularly when seeking a favorable adjustment or exclusion. Because NTN did not provide any information in its response or elsewhere that would have aided us in determining whether NTN received a bargained-for exchange from its U.S. customers, we cannot conclude that NTN received no consideration for these alleged samples. While NTN's database does include sales which are zero-priced, we are unable to determine from the record if these transactions represent those sales which NTN apparently argues should be excluded from the U.S. database in accordance with *NSK.* Furthermore, the mere fact that a sale has a reported unit price of zero does not indicate that a transaction lacked exchange of consideration. Our preliminary margin program incorporated language to exclude all zero-priced sales in the home and U.S. markets. However, for the reasons stated above, we have altered our treatment of NTN's zero-priced U.S. sales and have included them in NTN's U.S. database for these final results.

NTN also argues that we should exclude its alleged home market sample sales from its home market sales database. As noted previously, one of the circumstances under which we may exclude sample sales from the home market database is when a respondent has demonstrated that such sales were made outside the ordinary course of trade. Accordingly, we have examined the record with respect to NTN's alleged home market sample sales to determine if these sales qualify for such an exclusion. In its original questionnaire response NTN only states that ''samples are provided to customers for the purpose of allowing the customer to determine whether a particular product is suited to the customer's needs'' and that ''the purpose * * * would not be the same as those purchased in the normal course of trade'' (*see,* NTN Response at B–15). NTN has provided no other information demonstrating that its alleged home market sample sales were outside the ordinary course of trade. The fact that a respondent identified sales as samples does not necessarily render such sales outside the ordinary course of trade (*see AFBs VI* at 2124). For these reasons, we disagree with NTN that its home market ''sample'' sales should be excluded from our margin calculations.

We have also evaluated whether NTN's alleged home market sample sales qualify for exclusion from the home market database in light of the *NSK* decision. As noted above, we exclude sample transactions from the dumping calculation only if a respondent has demonstrated that there is either no transfer of ownership or no consideration. Evidence on the record clearly indicates that NTN received consideration for all home market sales it claims are samples. As such, none of its home market sample sales meet the criterion for exclusion established by *NSK.*

Therefore, because NTN's alleged U.S. and home market sample sales do not qualify for exclusion under *NSK,* and because NTN has failed to demonstrate that its home market sample sales are outside the ordinary course of trade, we have included these sales in our U.S. and home market databases for these final results.

Comment 36: NSK argues that Timken's general issues should be stricken from the record because the petitioner failed to include these arguments in the case briefs it served to respondents. NSK contends that because the general issues section is free of proprietary material, it should have been served with the proprietary portion of Timken's brief rather than one day later. NSK claims that the Department should not allow Timken to abuse the ''one-day lag'', for the purpose of the rule is to permit counsel the opportunity to review proprietary portions of submissions and to confirm that (a) all proprietary information has been properly bracketed, and (b) that the public version correctly removes, ranges or indexes the proprietary information. 19 CFR 353.32(a)(2). Therefore, NSK asserts, because neither of these purposes is served by Timken's decision to withhold an entire portion of its case brief, the Department should reject the general issues portion of Timken's case brief.

Department's Position: During our October 30, 1997 TRB hearing NSK raised these concerns. After adjourning to review the details of Timken's brief and the issues raised by NSK, we determined that Timken improperly served the general issues portion of its case brief to the other parties to this proceeding but nevertheless properly filed its brief with the Department. After further discussion with the parties in attendance we found that NSK, NTN, and Fuji all responded to Timken's general comments section in their rebuttal briefs, but that Koyo had not. Therefore, with the agreement of the parties in attendance, because Koyo did not have the opportunity to rebut this section of Timken's brief due to the service of the brief, we granted Koyo an additional week to respond to the general issues section of Timken's case brief and allowed Timken's general comments to remain part of the administrative record.

Clerical Errors

Comment 37: NSK argues that, when calculating home market net prices, rather than deducting NSK's reported REBATE1H, the Department incorrectly added these rebates to home market gross unit price. Timken states that, to the extent that the Department intended to deduct NSK's rebates when calculating NV, it agrees that the rebates were improperly added to gross price.

Department's Position: We agree with NSK and have amended our computer program for these final results such that NSK's reported home market rebates are subtracted from, rather than added to, home market gross unit prices.

Comment 38: NSK and Koyo assert that, when calculating CEP profit, the

Department incorrectly based its derivation of total home market revenue on gross home market prices rather than on home market prices net of discounts and rebates. Timken agrees that the calculation of home market revenues should be based on net price.

Department's Position: We agree. The Department's September 4, 1997 policy bulletin regarding the calculation of CEP profit clearly indicates that total home market sales revenue should be calculated net of home market discounts and rebates. Therefore, for these final results we have adjusted our calculation of NSK's and Koyo's home market revenue such that our computer programs calculate home market revenues net of rebates and discounts. In addition, while NTN did not comment on this issue, we note that we made the identical error in our preliminary results computer program for NTN. Therefore, to ensure the calculation of the most accurate final results margin for NTN, we have corrected this error in our computer program for NTN as well.

We also note that, while reviewing our preliminary results calculation of CEP profit for each of the respondents, we discovered that we inadvertently made an additional error. After calculating total actual profit and deriving a profit ratio, we multiply this ratio by the respondent's total U.S. selling expenses. Our September 4, 1997 policy bulletin clearly states that ''when allocating a portion of the actual profit to each U.S. CEP sale, we will include imputed (U.S.) credit and inventory carrying costs as part of the total U.S. expenses allocation.'' However, in our preliminary results computer programs we inadvertently excluded U.S. credit and inventory carrying costs from our calculation of the U.S. selling expenses upon which profit was allocated. Therefore, although no party to this proceeding commented on this issue, to ensure the calculation of accurate margins we have nevertheless corrected this error, where appropriate, for these final results.

Comment 39: NSK argues that, although it is the Department's long-standing policy when calculating CV to deduct credit from CV as a home market circumstance-of-sale (COS) adjustment and to deduct ICC as part of the CEP offset, the Department's preliminary results computer program for NSK did not make these adjustments. NSK contends that not only should the Department make these adjustments for these final results, but when deriving the expense ratios for credit and ICC, the Department should ensure that these ratios are calculated on the same basis as the value to which the ratios are applied.

Timken asserts that these imputed credit and inventory expenses are already included in the Department's calculation of CV as part of SG&A and that to add them again would result in double counting.

Department's Position: We agree with NSK. When calculating CV in our preliminary results computer program for NSK we inadvertently failed to make a COS adjustment to CV for NSK's reported home market credit expenses and failed to deduct ICC from CV as part of the CEP offset. Therefore, for these final results we have modified certain language within our computer program to ensure that these deductions are made when we calculated NV using CV. In addition, in order to derive the actual credit and ICC amounts used in our CV calculation, we calculated our home market credit and ICC ratios on the same basis as the value to which we applied these ratios. Furthermore, while only NSK commented on this issue, we have determined that we made the identical error in our preliminary results computer programs for NTN and Koyo. Therefore, to ensure the calculation of accurate final results margins for these two respondents, we have corrected this error in our computer programs for NTN and Koyo as well.

Comment 40: NSK contends that the Department improperly downloaded NSK's U.S. computer data by failing to define the Y2FACTU variable as having two decimal places. As a result, NSK asserts, the U.S. Y2 factors used by the Department in its preliminary results model-match for NSK erroneously relies on a U.S. Y2 factor which is overstated by 100. Timken agrees that NSK's U.S. Y2 factor variable appears to lack decimal places.

Department's Position: We agree with NSK. However, rather than re-downloading NSK's U.S. data to correct this error, for these final results we have corrected this error by dividing all of NSK's U.S. Y2 factors within our database by 100 prior to conducting our model matches.

Comment 41: Timken and NSK assert that an error exists in the Department's preliminary results computer programs which causes certain U.S. sales to be matched with the second or third most similar foreign like product in those instances where the identical or most similar foreign like product was determined to be below COP. Timken and NSK argue that, because it is the Department's long-standing practice to base its calculation of NV on CV whenever the identical or most similar foreign like product is below cost, for the final results the Department should correct this error such that whenever contemporaneous sales of an identical or most similar foreign like product is determined to be below COP, the computer program calculates NV on the basis of CV rather than continuing the search for a contemporaneous match of the next most similar foreign like product.

Department's Position: We agree with Timken and NSK. Therefore, for these final results we have modified our multi-level array model-match computer programming language to correct this error and to ensure that all sales of a U.S. model for which the identical or most similar foreign like product is below COP are compared to CV.

Comment 42: NTN argues that the Department's preliminary results computer program contains two errors which should be corrected for the final results. First, NTN claims, when creating the data sets NEGDATA1, HMREL, and HMUNREL from the data set HMOVER, the Department's computer program for NTN drops several observations which should have not been excluded from the margin calculations. Likewise, NTN argues, when the Department created the data sets HMSETS, HMCUPS, and HMCONES from the data set HMMM, the computer program again dropped several observations which should not have been excluded from the margin calculations.

While Timken does not specifically agree or disagree with NTN's clerical error allegations, with respect to NTN's first alleged error it notes that the Department's computer programming language causes sales observations with a customer relationship code other than 1 or 2 to be excluded from the Department's calculations. Similarly, Timken notes that, with respect to NTN's second alleged error, the Department's computer programming language results in observations for which the home market part type was reported as other than 1, 2, or 3 also to be excluded from the margin calculations.

Department's Position: With respect to NTN's first alleged error, we agree. In preparation for our arm's-length test we divided NTN's home market sales (data set HMOVER) into two groups on the basis of whether the sale was made to an affiliated or unaffiliated customer (data sets HMREL and HMUNREL). In our questionnaire we asked respondents to identify for each home market sale whether it was to an affiliated or unaffiliated customer, using a code of ''1'' for unaffiliated customers and a code of ''2'' for affiliated customers.

While our questionnaire does not instruct respondents to use any additional codes, NTN nevertheless separately identified its sales to home market affiliated customers which were consumed rather than resold using a code of ''3.'' In our preliminary results computer program we inadvertently excluded the code of ''3'' from the programming language we used to separate home market sales into the affiliated and unaffiliated sales groups. Therefore, for these final results we have corrected this error by identifying all home market sales to affiliated customers by means of both codes ''2'' and ''3.''

With respect to NTN's second alleged error, we disagree that the discrepancy NTN notes is an error. In our TRB questionnaire we ask respondents to identify TRB sets, cups, cones, and parts using numerical codes (''1'' for sets, ''2'' for cups'', ''3'' for cones, and ''4'' for parts), and we used these numerical codes when we created the data sets HMSETS, HMCUPS, and HMCONES in our computer program. The sales NTN identifies as being incorrectly excluded from the margin calculations were sales of home market parts (code ''4''). We did not create a separate HMPARTS data set and did not retain these sales in our margin calculation because we had already determined that NTN did not make any sales of TRB parts in the United States. Because our TRB model-match methodology does not permit the comparison of U.S. TRB sets, cups and cones to home market parts (we only match U.S. TRB sets to home market sets, U.S. cups to home market cups, U.S. cones to home market cones, and U.S. parts to home market parts), and because there were no U.S. sales of TRB parts, it was unnecessary for us to retain NTN's reported sales of home market TRB parts (code ''4'') in our data base. Therefore, because NTN's sales of home market TRB parts were not needed for comparison purposes, our exclusion of these sales from the margin calculations was appropriate and does not constitute an error as NTN alleges.

Comment 43: Timken argues that, while the Department's computer program for Koyo properly sets the inside diameter (ID) for home market TRB cups and the outside diameter (OD) for home market TRB cones to zero, the program fails to do the same for Koyo's reported U.S. sales of TRB cups and cones. Timken asserts that, because the inside and outside diameters are two of the five physical criteria relied upon in the Department's model-match methodology, this error will cause distortions when the Department matches U.S. sales to sales of the foreign like product.

Koyo contends that it is unnecessary for the Department to purposely set the ID for its reported U.S. TRB cups and the OD for its reported U.S. TRB cones to zero. Koyo argues that, regardless of whether there is an erroneous ID or OD reported for a U.S. TRB cup or cone, the Department's computer program nevertheless ranks the home market foreign like products for each U.S. model accurately.

Department's Position: We disagree with Timken that distortions will result because the computer program does not set the OD for U.S. cones and the ID for U.S. cups to zero. Two of the physical criteria for TRB sets are the ID and OD. The ID reflects the measure of the TRB cone while the OD reflects the measure of the TRB cup. While a TRB set, which contains both a cup and cone, has both an ID and OD measurement, individually sold TRB cups do not have an ID and individually sold TRB cones do not have an OD. As a result of our home market set-splitting methodology, in which we derive separate cup and cones sales from the respondents' reported home market TRB set sales, it is necessary for us to purposely set the ID for split cups to zero and the OD for split cones to zero. In the past, we have found it unnecessary to include similar programming language with respect to a respondent's U.S. sales because we do not split U.S. sets into individual cup and cone sales. Timken's comments reflect its concern that, if a respondent incorrectly reports an ID value greater than zero for any U.S. cups and an OD value greater than zero for any U.S. cones, the Department's programming language would result in inaccurate model matching. Therefore, for these final results we have examined whether Koyo reported any ID values for its U.S. cups or OD values for its U.S. cones which were greater than zero. We found that Koyo had indeed reported values greater than zero for both the OD of its U.S. cones and the IDs of its U.S. cups. As a result, we have set the value of any positive inside cup diameters or positive outside cone diameters to zero in Koyo's U.S. summary sales databases.

Final Results of Reviews

Based on our review of the arguments presented above, for these final results we have made changes in our preliminary margin calculation programs. We determine that the following percentage weighted-average margins exist for the period October 1, 1995 through September 30, 1996:

Manufacturer/exporter/reseller	Margin (percent)
For the A–588–054 Case:.	
Koyo Seiko	9.60
Fuji	.34
NSK	1.45
MC International	1.92
For the A–588–604 Case:.	
Fuji	(1)
MC International	(1)
Koyo Seiko	29.02
NTN	27.80
NSK	9.60

[1] No shipments or sales subject to this review. These firms have no rate from any prior segment of this proceeding.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will calculate importer-specific ad valorem duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries that a particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between NV and U.S. price, by the total U.S. price of the sales compared and adjusting the result by the average difference between U.S. price and customs value for all merchandise examined during the POR.) While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as a basis of the assessment rate permits the Department to collect a reasonable approximation of antidumping duties which would have been determined if the Department had reviewed those sales of merchandise during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective after the publication date of these final results for all shipments of TRBs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act:

(1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be

the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in these reviews, a prior review, or the less-than-fair-value (LTFV) investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 case will be 18.07 percent, and 36.52 percent for the A–588–604 case (*see Preliminary Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan and Tapered Roller Bearings, Four Inches or less in Outside Diameter, and Components Thereof, From Japan,* 58 FR 51061 (September 30, 1993)).

The cash deposit rate has been determined on the basis of the selling price to the first unaffiliated U.S. customer. For appraisement purposes, where information is available, the Department will use the entered value of the merchandise to determine the assessment rate.

This notice serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. These administrative reviews and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These administrative reviews and this notice are in accordance with section 751 (a)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 CFR 353.22.

Dated: January 7, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–944 Filed 1–14–98; 8:45 am]

BILLING CODE 3510–DS–P

federal register

Thursday
January 15, 1998

Part IV

Department of Education

Notice of Inviting Applications for New Awards for Fiscal Year 1998; Notice

DEPARTMENT OF EDUCATION

Notice Inviting Applications for New Awards for Fiscal Year 1998

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1998.

SUMMARY: On June 4, 1997, the President signed into law Pub. L. 105–17, the Individuals with Disabilities Education Act Amendments, amending the Individual with Disabilities Education Act (IDEA).

This notice provides closing dates and other information regarding the transmittal of applications for a fiscal year 1998 competition under one program authorized by IDEA, as amended. The Office of Special Education Programs (OSEP) has, in prior years, announced priorities for the support of model demonstration projects under several of the programs authorized by IDEA. This priority consolidates the similar model demonstration priority requirements among the various programs. By consolidating multiple priorities and announcements into one, OSEP endeavors to avoid unnecessary duplication and provide consistent information for all model demonstration competitions. This approach reflects the IDEA amendments of 1997, which consolidated fourteen separate discretionary programs into six, in order to ensure a broader coverage of the full range of children with disabilities, and to provide greater flexibility in the administration of the program. The priority under this program is based on the statutory provisions in IDEA or on previously published priorities for which public comment was sought and received. Only changes authorized by IDEA were made to priorities previously published.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priority in this notice. In order to make awards on a timely basis, the Secretary has decided to publish this priority in final under the authority of section 661(e)(2).

This notice supports the National Education Goals by improving understanding of how to enable children with disabilities to reach higher levels of academic achievement.

Note: The Department of Education is not bound by any estimates in this notice.

Research and Innovation to Improve Services and Results for Children With Disabilities

[CFDA No. 84.324]

Purpose of Program

To produce, and advance the use of, knowledge to: (1) Improve services provided under IDEA, including the practices of professionals and others involved in providing those services to children with disabilities; and (2) improve educational and early intervention results for infants, toddlers, and children with disabilities.

Eligible Applicants

State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 80, 81, 82, 85, and 86; and (b) The selection criteria included in regulations in 34 CFR 324.32.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Priority

Under sections 661(e)(2) and 672 of IDEA and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only those applications that meet this absolute priority:

Absolute Priority—Model Demonstration Projects for Children With Disabilities (84.324M)

This priority supports model demonstration projects that develop, implement, evaluate, and disseminate new or improved approaches for providing early intervention, special education and related services to infants, toddlers, and children with disabilities, ages birth through 21. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under the Individuals with Disabilities Education Act.

Under the Government Performance and Results Act (GPRA), OSEP is developing performance measures for programs authorized by Part D of IDEA. This absolute priority includes measures that may be used to implement the GPRA.

Under this absolute priority, the Secretary expects to fund projects across the full range of age, disability, and service issue categories. In addition, the Secretary intends, under section 661(e)(2) of IDEA, to fund a limited number of projects in each of the focus areas listed below. An applicant that chooses to address one or more of the focus areas listed below should identify in their application the focus area or areas they select on the cover sheet of their application.

Focus Area 1—Early Intervention and Early Childhood

Projects under this focus area support models that identify and address one or more of the changes included in the IDEA Amendments passed in 1997 that may affect the delivery of services for young children with disabilities (ages birth through nine). Examples of changes in IDEA that may affect young children with disabilities and their families include, but are not limited to:

(1) The implementation and impact of Individualized Family Service Plans (IFSP), Individualized Education Programs, and transition requirements that become effective in July of 1998; and

(2) The increased access of infants and toddlers to service delivery in natural environments.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures—

(a) Changes in the percentage of families receiving all services identified on the IFSP and reporting that their services are timely and coordinated;

(b) Changes in the percentage of parents who are satisfied with their child's education; and

(c) Changes in the number of infants, toddlers, and young children with disabilities, primarily receiving services in natural environments, making the transition at age 3 to inclusive settings, and participating in regular education programs, as a result of the model project.

The Secretary intends to make approximately 3 awards in Focus Area 1.

Focus Area 2—Instructional Models to Improve Early Reading Results for Children with Learning Disabilities

Children with learning disabilities typically need highly purposeful, strategic, systematic, and carefully designed instruction to learn to read. This focus area supports newly-developed models to improve the early

reading results for children with learning disabilities in kindergarten-third grades. The models must incorporate research-based principles of phonemic awareness, alphabetic understanding and knowledge, the appreciation of meaning, and reflect the following research based principles: create appreciation of the written word; develop awareness of printed language; learn the alphabet; understand the relation of letters and words; understand that language is made of words, syllables, and phonemes; learn letter sounds; sound out new words; identify words in print accurately and easily; know spelling patterns; and learn to read critically.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures—

(a) Multiple measures of student's beginning reading knowledge and skills;

(b) The extent to which children with learning disabilities access the general education curriculum, including participation in national and State assessments; and

(c) Descriptions of the instructional models, including basal reading programs, supplemental materials, and instructional approaches.

The Secretary intends to make approximately 3 awards in Focus Area 2.

Focus Area 3—Appropriate Services for Children with Deaf-Blindness

This focus area supports model projects to meet the needs of children with deaf-blindness. Projects may include, for example, related services such as assistive technology, innovative approaches to addressing language and communication, sensory functioning, and orientation and mobility skills for students attending their local schools. Projects may address the heterogeneous nature of the students' needs, ranging from advanced curricula for some students to lifelong support for others. Projects are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures:

(a) Changes in family satisfaction with the provision of services and the child's education; and

(b) Changes in the teacher's assessment of the provision of services.

The Secretary intends to make approximately 3 awards in Focus Area 3.

Focus Area 4—Comprehensive Models for Children With or At Risk of Emotional Disturbance

Projects under Focus Area 4 support school and community-based service delivery systems for children with or at risk of emotional disturbance, that implement the targets of the National Agenda for Achieving Better Results for Children and Youth with Serious Emotional Disturbance (U.S. Department of Education, 1994) to: (a) Expand positive learning opportunities and results; (b) Strengthen school and community capacity; (c) Value and address diversity; (d) Collaborate with families; (e) Promote appropriate assessment; (f) Provide ongoing skill development and support; and (g) Create comprehensive and collaborative systems.

The targets and cross-cutting themes of the Agenda were reinforced in IDEA with the emphasis on interagency collaboration, and on early intervention and prevention.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures—

(a) Decreases in the percentage of children who are suspended or expelled; and

(b) Improvements in identification, early intervention, and prevention of emotional disturbance.

The Secretary intends to make approximately 3 awards in Focus Area 4.

Focus Area 5—Secondary School Services for Children with Disabilities

Among the Amendments to the IDEA passed in 1997 were changes to the requirements in the IEP that take effect on July 1, 1998. The law now requires, beginning at age 14, ''a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program)'' (section 614(d)(1)(A)(vii)(i)). This change focuses attention on how the child's educational program can be planned to help the child succeed in secondary school and make a successful transition to his or her goals for life after secondary school. With the provision of improved services beginning early in secondary school, there is sufficient time to achieve desired post-school results through a carefully planned and integrated program of proper instruction, related services, and community experience. For example, data from the National Longitudinal Transition Study indicated that successful participation by students with disabilities in vocational education and higher-level academic programs improved outcomes in employment, postsecondary education, independent living, and community participation.

Under Focus Area 5, projects will be supported to develop and demonstrate effective strategies for—

(a) Incorporating instructional objectives into the IEP that address the needs and preferences of the student, beginning at age 14;

(b) Specifying a role for the general education teacher in this process;

(c) To the extent appropriate, employing strategies for accessing the general education curriculum to achieve instructional objectives; and

(d) Employing strategies for evaluating student progress within instructional settings toward transition-related goals or objectives or both.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures—

(a) Changes in the percentage of children with disabilities participating in core academic subjects (i.e., the subjects required for high school graduation);

(b) Changes in the percentage of children with disabilities, ages 14 and older, whose IEPs include courses of study for advanced placement or vocational education programs;

(c) Changes in the percentage of children with disabilities, ages 14 and older, who have IEP statements of student progress toward transition-related goals;

(d) Changes in student progress on outcomes as measured by State or district-wide assessments of all students;

(e) Changes in the accumulation of credits toward graduation with a diploma or progress indicators for the awarding of certificates; and

(f) Changes in attendance and dropout statistics for participants.

The Secretary intends to make approximately 3 awards in Focus Area 5.

Focus Area 6—Two-Year Postsecondary Institutions.

The 1992–93 National Postsecondary Student Aid Survey (NPSAS), reports that 71 percent of students with disabilities attending institutions of higher education are enrolled in two-year institutions. This figure represents an 8 percent increase in two-year

institution enrollment since the 1989–90 academic year. To improve employment outcomes for persons with disabilities, providing exemplary supports, services, and accommodations in two-year community and technical colleges is a critical need. Further, there is a continuing need to strengthen linkages with secondary education, vocational rehabilitation, TRIO programs, four-year colleges and universities, and other State and local agencies, resources, and service-delivery systems.

Projects must address the needs of students with disabilities attending two-year institutions of higher education. For example, projects under this focus may: establish outreach strategies to recruit students from secondary education settings into two-year institutions; develop innovative supports and services to improve academic performance, retention, and program completion rates; improve educational access through assistive technology and distance learning; establish linkages with four-year institutions to facilitate further academic study; and establish collaborations with employers, vocational rehabilitation, community-based organizations, and other relevant agencies and service-delivery systems.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measure: Changes in the percentage of students with disabilities entering and successfully completing two-year postsecondary education programs, and transferring to four-year institutions or employment as a result of the model project.

The Secretary intends to make approximately 3 awards in Focus Area 6.

Focus Area 7—Local or State Child Find

Projects under this Focus Area support development of local or State Child Find models to identify all eligible children under IDEA, Part C, currently Part H of IDEA. Projects must test and describe the environments and strategies that promote successful child find practices.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures—

(a) Changes in the number of children served under Part C, ages birth to 3;

(b) Changes in the number of children referred to the State Child Find system from all sources, public and private;

(c) Changes in the proportion of children served ages birth to 1 year old, as measured relative to the total number of children served under IDEA, Part C within the geographic area served by the project; and

(d) Changes in the collaborative efforts and linkages to other agencies in States that provide services for infants and toddlers at-risk for disabilities.

The Secretary intends to make approximately 3 awards in Focus Area 7.

Focus Area 8—Inclusive Schooling Practices in Urban and Rural School Districts

Projects under this Focus Area demonstrate innovative strategies for implementing inclusive schooling practices, including preschool practices, as components of systemic education reform in urban and rural school districts. For example, projects under this Focus may demonstrate: innovative supports and services as part of systemic education reform to improve academic performance and results for students in inclusive settings; processes and means for general and special education to create a unified system in order to support school reform and the inclusion of students with severe disabilities in inclusive settings; inventive methods for interagency collaboration and service coordination in support of systemic reform for the inclusion of students with disabilities in their community schools; and innovative approaches to the involvement of the community and families in support of systemic reform and implementation of inclusive schooling practices.

Projects under this program are required to evaluate their effectiveness. Where appropriate, the Secretary particularly encourages projects under this focus area to include information related to the following measures:

(a) Changes in the percentage of children with disabilities who participate in the general curriculum most of their day;

(b) Changes in the percentage of children with disabilities in the regular classroom with (appropriate) supports and accommodations and adaptive instructional methods; and

(c) Changes in the percentage of children with disabilities who participate in other school functions as a result of the model project.

The Secretary intends to make approximately 3 awards for this competitive priority.

Requirements for All Demonstration Projects

A model demonstration project must—

(a) Develop and implement the model with specific components or strategies that are based on theory, research, or evaluation data;

(b) Evaluate the model by using multiple measures of results to determine the effectiveness of the model and its components or strategies. With the exception of projects under focus area 7, Local and State Child Fund, all projects must include measures of individual child change and other indicators of the effects of the model (e.g., family outcomes, peer outcomes, teacher outcomes), and cost data associated with implementing the model; and

(c) Produce detailed procedures and materials that would enable others to replicate the model.

Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of development, operation, and evaluation of the project.

Applicants and resulting projects must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects. (See section 661(f)(1)(A) of IDEA.)

All projects funded under this priority must make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act. (See section 606 of IDEA.)

Projects must budget for two trips annually to Washington, D.C., for: (1) A two-day project directors' meeting; and (2) a meeting to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss project implementation issues.

Applications Available: January 23, 1998.

Deadline for Transmittal of Applications: March 13, 1998.

Deadline for Intergovernmental Review: May 13, 1998.

Estimated Number of Awards: 36.

Project Period: Up to 48 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $150,000 (exclusive of any matching funds) for any single budget period of 12 months. However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limit: Part III of the application, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A ''page'' is 8½″ x 11″ (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, résumés, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: Sections 672 and 673 of IDEA.

Dated: November 19, 1997.

Howard Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–960 Filed 1–14–98; 8:45 am]

BILLING CODE 4000–01–P

Reader Aids

Federal Register

Vol. 63, No. 10

Thursday, January 15, 1998

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

E-mail **info@fedreg.nara.gov**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202–275–0920**

FAX-ON-DEMAND

You may access our Fax-On-Demand service with a fax machine. There is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list is updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, NW., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JANUARY

1–138 2
139–398 5
399–654 6
655–1050 7
1051–1320 8
1321–1734 9
1735–1888 12
1889–2134 13
2135–2304 14
2305–2592 15

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Notice of January 2, 1998 653

5 CFR

251 2305
551 2304
Proposed Rules:
890 446

7 CFR

301 .....1, 1321
925 655
930 399
966 139
980 139
1930 2135
Proposed Rules:
610 446
868 2353
1301 1396

8 CFR

103 1331
212 1331
214 1331
235 1331
274a 1331
Proposed Rules:
103 1775

9 CFR

3 1
92 1889
93 1889
94 .....406, 1889
95 1889
96 .....406, 1889
97 1889
98 1889
130 1889
145 2
147 2
310 1735
319 147
Proposed Rules:
304 1797
305 1797
310 1800
327 1797
335 1797
381 1797
500 1797

10 CFR

30 1890
32 1890
40 1890
50 .....1335, 1890
52 1890
60 1890
61 1890
70 1890
71 1890
72 1890
110 1890
150 1890
Proposed Rules:
430 2186
708 374

12 CFR

560 1051
Proposed Rules:
309 29
563 563
563b 563

14 CFR

39 .....4, 658, 1335, 1337, 1735, 1737, 1738, 1901, 1903, 1905, 1907, 1909, 1911, 1912, 1913
61 660
71 .....924, 1884, 1915, 1916, 1997, 2136, 2137, 2138
91 .....1917, 2304
93 1917
97 .....666, 2139
119 4
121 .....4, 1917, 2304
135 .....4, 1917
142 2304
Proposed Rules:
25 2186
39 .....167, 169, 171, 172, 174, 1070, 1072, 1074, 1076, 1930
91 126
121 126
125 126
129 126

15 CFR

732 2452
740 2452
742 2452
743 2452
744 2452
746 2452
762 2452
774 2452
902 .....290, 667

16 CFR

Proposed Rules:
Ch. I 1802
303 .....447, 449
1210 1077

17 CFR

Ch. II 451
240 1884

Proposed Rules:
1.....695, 2188

20 CFR
200.....2140
Proposed Rules:
200.....34

21 CFR
510.....408
520.....148, 408
558.....408, 2306
Proposed Rules:
101.....1078
201.....176

22 CFR
40.....669
41.....669

23 CFR
1327.....149

24 CFR
207.....1302
251.....1302
252.....1302
255.....1302
266.....1302
Proposed Rules:
81.....1997

26 CFR
1.....6, 409, 411, 671, 1054, 1740, 1917
40.....24
48.....24
602.....6, 1917
Proposed Rules:
1.....35, 39, 42, 453, 707, 1803, 1932, 1933
54.....708
301.....1086

29 CFR
1610.....1610
1910.....1152
1926.....1152, 1919
4044.....2307

30 CFR
924.....1342
Proposed Rules:
Ch. II.....185
56.....290
57.....290
62.....290
70.....290
71.....290
904.....1396
918.....712
936.....454, 1399
944.....2192

31 CFR
103.....1919

33 CFR
117.....1746, 2141, 2308
Proposed Rules:
165.....1089

35 CFR
115.....2141
117.....2141
119.....2141
Proposed Rules:
133.....186
135.....186

36 CFR
1151.....1924
1153.....1924
1155.....1924
1191.....2000, 2060

37 CFR
203.....1926
253.....2142

38 CFR
3.....412, 413

39 CFR
111.....153
255.....2304

40 CFR
9.....673, 926, 1059, 1318
51.....414, 1362
52.....26, 414, 415, 674, 1060, 1362, 1369, 1927, 2146, 2147
60.....414, 1746
61.....414, 1746
62.....2154
63.....1746
68.....640
85.....926
86.....926
140.....1318
180.....156, 416, 417, 676, 679, 1369, 1377, 1379, 2156, 2163
185.....2163
186.....1379, 2163
228.....682
244.....683
245.....683
271.....683, 2167
712.....684
716.....684
721.....673, 685, 686
Proposed Rules:
52.....456, 714, 1091, 1804, 1935, 2194
60.....2194
61.....2194
62.....2195
63.....2194
73.....714
122.....1536
123.....1536

42 CFR
405.....687
411.....1646
413.....292, 1379
440.....292
441.....292
489.....292
Proposed Rules:
411.....1659
424.....1659
435.....1659
455.....1659
1001.....187

43 CFR
Proposed Rules:
3100.....1936
3106.....1936
3130.....1936
3160.....1936

44 CFR
11.....1063

45 CFR
1301.....2312
1304.....2312
1305.....2312
1306.....2312
1630.....1532
Proposed Rules:
302.....187
303.....187
304.....187

47 CFR
0.....990
1.....990, 2170, 2315
21.....2315
24.....2170, 2315
26.....2315
27.....2315
36.....2094
54.....162, 2094
69.....2094
73.....164, 160, 2350, 2351
90.....2315
95.....2315
Proposed Rules:
1.....460, 770
21.....770
24.....770
26.....770
27.....770
64.....1943
73.....193, 194, 2354, 2355
76.....1943
90.....770
95.....770

48 CFR
4.....1532
6.....1532
8.....1399
12.....1532
13.....1532
16.....1532
19.....1532
32.....1532
33.....1532
41.....1532
42.....1532
43.....1532
49.....1532
52.....1532
53.....648, 1532
1505.....690
1514.....690
1535.....418
1537.....690
1548.....690
1552.....418, 690, 691, 1532
Proposed Rules:
Ch. XXVIII.....1399
44.....649
922.....386
952.....386
970.....386

49 CFR
10.....2171
173.....1884
382.....2172
393.....1383
571.....27
653.....418
654.....418
Proposed Rules:
232.....195, 1418
571.....46

50 CFR
17.....692, 1752
32.....2178
226.....1388
285.....667
600.....419
622.....290, 443, 1772
648.....444, 1773, 2182, 2184
660.....419
Proposed Rules:
17.....1418, 1948
222.....1807
227.....1807
300.....1812
622.....1813
648.....466
660.....2195

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 15, 1998

COMMERCE DEPARTMENT

Export Administration Bureau

Export licensing:

Commerce control list—

Wassenaar Arrangement List of Dual-Use Items; implementation; commerce control list revisions and reporting requirements; published 1-15-98

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Competitive bidding procedures; published 1-15-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Head Start Program:

Early Head Start program; performance standards for grantees and agencies providing services; implementation; correction; published 1-15-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Chloretracycline, sulfathiazole, penicillin; published 1-15-98

PERSONNEL MANAGEMENT OFFICE

Organizations representing Federal employees and other organizations; agency relationships; published 1-15-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

British Aerospace; published 12-31-97

Fokker; published 12-31-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Mushroom promotion, research, and consumer information order; referendum procedures; comments due by 1-22-98; published 12-23-97

Spearmint oil produced in Far West; comments due by 1-23-98; published 12-24-97

Tomatoes grown in Florida and imported; comments due by 1-20-98; published 12-18-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Bovine spongiform encephalopathy; disease status change—

Belgium; comments due by 1-20-98; published 11-18-97

Plant-related quarantine, domestic:

Mediterranean fruit fly; comments due by 1-20-98; published 11-20-97

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Technical assistance:

State Technical Committees; membership and role expansion

Comment period extension; comments due by 1-23-98; published 1-6-98

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric, telecommunications, and water and waste financial assistance programs; environmental policies and procedures; comments due by 1-23-98; published 11-24-97

DEFENSE DEPARTMENT

Engineers Corps

Water resource development projects, public use; shoreline use permits; flotation materials; comments due by 1-20-98; published 12-4-97

EDUCATION DEPARTMENT

Special education and rehabilitative services:

Individuals with Disabilities Education Act Amendments of 1997; implementation—

State assistance and preschool grants for children with disabilities programs and early intervention program for infants and toddlers with disabilities; comments due by 1-20-98; published 10-22-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 1-22-98; published 12-23-97

Colorado; comments due by 1-22-98; published 12-23-97

Illinois; comments due by 1-22-98; published 12-23-97

New York; comments due by 1-21-98; published 12-22-97

Texas; comments due by 1-20-98; published 12-19-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Fenarimol; comments due by 1-20-98; published 11-18-97

Fomesafen; comments due by 1-20-98; published 11-19-97

Hydroprene; comments due by 1-20-98; published 11-19-97

Superfund program:

National oil and hazardous substances contigency plan—

Uncontrolled hazaradous waste sites; listing and deletion policy for Federal facilities; comments due by 1-23-98; published 11-24-97

FARM CREDIT ADMINISTRATION

Farm credit system:

Loan policies and operations—

Interest rates and charges; comments due by 1-21-98; published 12-22-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Satellite communications—

Ka-band satellite application and licensing procedures; comments due by 1-21-98; published 11-18-97

FEDERAL ELECTION COMMISSION

Contribution and expenditure limitations and prohibitions:

Corporate and labor organizations—

Association member; definition; comments due by 1-21-98; published 12-22-97

Qualified nonprofit corporations; comments due by 1-23-98; published 12-10-97

FEDERAL EMERGENCY MANAGEMENT AGENCY

Disaster assistance:

Fire suppression assistance; eligibility process simplified and Federal cost share changed; comments due by 1-23-98; published 11-24-97

Public assistance and hazard mitigation grant programs; appeals review and disposition procedures; comments due by 1-23-98; published 11-24-97

FEDERAL RESERVE SYSTEM

Truth in lending (Regulation Z):

Official staff commentary; update; comments due by 1-20-98; published 12-9-97

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Fair housing:

Fair Housing Act violations; civil penalties; comments due by 1-20-98; published 12-18-97

Single Audit Act Amendments of 1996; implementation:

Audits of States, local governments, and non-profit organizations expending Federal awards; comments due by 1-20-98; published 11-18-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Mobile River Basin, AL; cylindrical lioplax, etc. (six aquatic snails); comments due by 1-23-98; published 12-19-97

Preble's meadow jumping mouse; comments due by 1-22-98; published 12-23-97

Riparian brush rabbit, etc.; comments due by 1-20-98; published 11-21-97

Rough Popcornflower; comments due by 1-20-98; published 11-20-97

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 1-22-98; published 12-23-97

LABOR DEPARTMENT
Employment and Training Administration
Welfare-to-work grants; governing provisions; comments due by 1-20-98; published 11-18-97

LABOR DEPARTMENT
Mine Safety and Health Administration
Coal and metal and nonmetal mine safety and health:
Occupational noise exposure
Report availability; comments due by 1-22-98; published 12-23-97

PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems; comments due by 1-22-98; published 12-23-97
Retirement, health benefits, and life insurance, Federal employees:
Decennial census employees with dual appointments; continuity of coverage requirements; exemption; comments due by 1-23-98; published 12-24-97

SECURITIES AND EXCHANGE COMMISSION
Investment advisers:
Fees based upon capital gains shares or capital appreciation of client's account; exemption; comments due by 1-20-98; published 11-19-97
Multi-state investment advisers; exemption; comments due by 1-20-98; published 11-19-97

TRANSPORTATION DEPARTMENT
Coast Guard
Ports and waterways safety:
Los Angeles Harbor-San Pedro Bay, CA; safety zone; comments due by 1-20-98; published 11-19-97

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Allison Engine Co.; comments due by 1-20-98; published 11-18-97
Boeing; comments due by 1-23-98; published 12-9-97
British Aerospace; comments due by 1-20-98; published 12-18-97
Eurocopter France; comments due by 1-20-98; published 11-21-97
Fokker; comments due by 1-20-98; published 12-18-97
Saab; comments due by 1-20-98; published 12-18-97
Class E airspace; comments due by 1-20-98; published 12-3-97

TRANSPORTATION DEPARTMENT
Federal Railroad Administration
Railroad power brakes and drawbars:
Train and locomotive power braking systems; advanced technology use; two-way end-of-train telemetry devices; comments due by 1-20-98; published 1-5-98

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Anthropomorphic test devices:
Side impact test dummies; dynamic crash test; comments due by 1-22-98; published 12-8-97

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
Facility response plan submissions; reporting cycle changes; comments due by 1-22-98; published 12-24-97
Outer Continental Shelf pipelines; point at which pipeline is subject to RSPA regulations; memorandum of understanding with Interior Department; comments due by 1-20-98; published 11-19-97

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcohol; viticultural area designations:
San Francisco Bay, CA; comments due by 1-20-98; published 10-20-97

LIST OF PUBLIC LAWS

The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

Note: A Cumulative List of Public Laws was published in the **Federal Register** on December 31, 1997.

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service for newly enacted public laws. To subscribe, send E-mail to **LISTPROC@ETC.FED.GOV** with the message:

SUBSCRIBE PUBLAWS-L FIRSTNAME LASTNAME

Note: This service is strictly for E-mail notification of new public laws only. The text of laws is not available through this service. We cannot respond to specific inquiries sent to this address.