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The President

Presidential Determination No. 02–25 of July 9, 2002

Delegation of Authority Under Sections 2(d) and 2(f) of the Migration and Refugee Assistance Act of 1962, as Amended

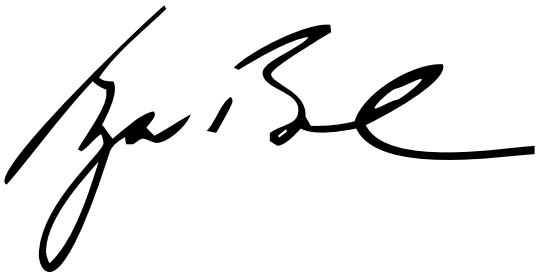
Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate the functions and authorities conferred upon the President by sections 2(d) and 2(f) of the Migration and Refugee Assistance Act (MRAA) of 1962, as amended, 22 U.S.C. §2601, insofar as they relate to actions taken under the authority of section 2(b)(2) of the MRAA, to the Secretary of State, who should insure timely performance of any duties and obligations of the delegated authority and who is authorized to redelegate these functions and authorities consistent with applicable law. The Secretary of State, or his or her delegate, is directed to provide notice to the President of any use of the functions and authorities delegated by this determination.

This delegation of authority supplements Presidential Determination No. 99–6, Delegation of Authority Under Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended (November 30, 1998).

Any reference in this memorandum to section 2 of the MRAA, as amended, shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this Determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 9, 2002.

[FR Doc. 02–18445
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Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–4 FIR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2001–02 Crop Natural (sun-dried) Seedless and Other Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that established final volume regulation percentages for 2001–02 crop Natural (sun-dried) Seedless (NS) and Other Seedless (OS) raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (Committee). The volume regulation percentages are 63 percent free and 37 percent reserve for both NS and OS raisins. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

EFFECTIVE DATE: August 19, 2002. This rule applies to acquisitions of NS and OS raisins from the 2001–02 crop until the reserve raisins from that crop are disposed of under the marketing order.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule continues in effect final free and reserve percentages for NS and OS raisins for the 2001–02 crop year, which began August 1, 2001, and ends July 31, 2002. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect final volume regulation percentages for 2001–02 crop NS and OS raisins covered under the order. The percentages were established through an interim final rule published on April 3, 2002 (67 FR 15707). The volume regulation percentages are 63 percent free and 37 percent reserve for both NS and OS raisins. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed.

The volume regulation percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions. Final percentages were recommended by the Committee on February 14, 2002. One Committee member opposed the NS raisin percentages. He believes that the Committee failed to properly consider certain factors in its deliberations, particularly the impact of additional free tonnage on a weakening market. Another Committee member opposed the OS percentages. That handler claims he has developed a specialty market for OS raisins and indicated that he cannot meet his market needs under the volume regulation percentages.

Computation of Trade Demands

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 14, 2001, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which

a free tonnage percentage might be recommended. Trade demand is computed using a formula specified in the order and, for each varietal type, is equal to 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets, adjusted by subtracting the carryin on August 1 of the current crop year, and adding the desirable carryout at the end of that crop year. As specified in § 989.154(a), the desirable carryout for each varietal type is equal to a 5-year rolling average, dropping the high and low figures, of free tonnage shipments during the months of August, September, and October. In accordance with these provisions, the Committee computed and announced 2001–02 trade demands for NS and OS raisins at 235,850 tons and 1,692 tons, respectively, as shown below.

COMPUTED TRADE DEMANDS

[Natural condition tons]

	NS Raisins	OS Raisins
Prior year's shipments	295,477	5,544
Multiplied by 90 percent	0.90	0.90
Equals adjusted base	265,929	4,990
Minus carryin inventory	116,131	4,273
Plus desirable caryout	86,052	975
Equals computed trade demand	235,850	1,692

Computation of Preliminary Volume Regulation Percentages

As required under § 989.54(b) of the order, the Committee met on September 20, 2001, and announced a preliminary crop estimate for NS raisins of 359,341 tons, which is comparable to the 10-year average of 344,303 tons. NS raisins are the major varietal type of California raisin. Adding the carryin inventory of 116,131 tons, plus 32,193 tons of reserve raisins released to handlers for free use in September 2001 through an export program, plus the 359,341-ton crop estimate resulted in a total available supply of 507,665 tons, which was significantly higher (about 115 percent) than the 235,850-ton trade demand. Thus, the Committee determined that volume regulation for NS raisins was warranted. The Committee announced preliminary free and reserve percentages for Naturals, which released 85 percent of the computed trade demand since the field price (price paid by handlers to producers for their free tonnage raisins) had been established. The preliminary percentages were 56 percent free and 44 percent reserve.

Also at its September 20, 2001, meeting, the Committee announced a preliminary crop estimate for OS raisins at 7,073 tons, which is almost double the 10-year average of 3,786 tons. Combining the carry-in inventory of 4,273 tons with the 7,073-ton crop estimate resulted in a total available supply of 11,346 tons. With the estimated supply significantly higher (over 500 percent) than the 1,692-ton trade demand, the Committee determined that volume regulation for OS raisins was warranted. The Committee announced preliminary percentages for OS raisins, which released 85 percent of the computed trade demand since field price had been established. The preliminary percentages were 20 percent free and 80 percent reserve.

In addition, preliminary percentages were also announced for Dipped Seedless, Oleate and Related Seedless, and Zante Currant raisins. The Committee ultimately determined that volume regulation was only warranted for NS and OS raisins. As in past seasons, the Committee submitted its marketing policy to USDA for review.

Modification to Marketing Policy Regarding OS Raisins

Pursuant to § 989.54(f) of the order, the Committee met on December 11, 2001, and revised its marketing policy regarding OS raisins due to a major change in economic conditions. The 7,073-ton crop estimate was reduced to 5,000 tons, and the 1,692-ton trade demand was increased to 2,800 tons. This resulted in volume regulation percentages at 48 percent free and 52 percent reserve to release 85 percent of the 2,800-ton trade demand.

The Committee took this action in response to concerns raised by OS handlers who were facing difficulties under the preliminary percentages of 20 percent free and 80 percent reserve. Volume regulation has not been implemented for OS raisins since the 1994–95 season. Some handlers who developed markets since that time, in the absence of volume regulation, were having difficulties meeting their customers' needs. The merits of suspending volume regulation were deliberated by the Committee. However, the majority of Committee members supported some level of regulation. The Committee ultimately determined that the OS trade demand should be increased to 2,800 tons which resulted in less restrictive volume regulation percentages.

Computation of Final Volume Regulation Percentages

Pursuant to § 989.54(c), the Committee met on February 14, 2002, and recommended interim percentages for NS and OS raisins to release slightly less than their full trade demands. Specifically, interim percentages were announced for both NS and OS raisins at 62.75 percent free and 37.25 percent reserve. The interim percentages were based on revised crop estimates. The NS crop estimate was increased from 359,341 to 372,499 tons, and the OS crop estimate was decreased from 5,000 to 4,416 tons. Pursuant to § 989.54(d), the Committee also recommended final percentages to release the full trade demands for NS and OS raisins. Final percentages compute to 63 percent free and 37 percent reserve for both varietal types. The Committee's calculations to arrive at final percentages for NS and OS raisins are shown in the table below:

FINAL VOLUME REGULATION PERCENTAGES

[Natural condition tons]

	NS Raisins	OS Raisins
Trade demand	235,850	2,800
Divided by crop estimate	372,499	4,416
Equals free percentage	63	63
100 minus free percentage equals reserve percentage	37	37

In addition, USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) specify that 110 percent of recent years' sales should be made available to primary markets each season for marketing orders utilizing reserve pool authority. This goal was met for NS and OS raisins by the establishment of final percentages, which released 100 percent of the trade demands and the offer of additional reserve raisins for sale to handlers under the ''10 plus 10 offers.'' As specified in § 989.54(g), the 10 plus 10 offers are two offers of reserve pool raisins, which are made available to handlers during each season. For each such offer, a quantity of reserve raisins equal to 10 percent of the prior year's shipments is made available for free use. Handlers may sell their 10 plus 10 raisins to any market.

The ''10 plus 10 offers'' for NS raisins were held in November 2001. A total of 59,095 tons was made available to raisin handlers, and 4,000 tons of raisins were purchased. Adding the 4,000 tons of 10 plus 10 raisins to the 235,850-ton trade demand figure, plus 116,131 tons of 2000–01 carryin inventory, plus 32,193 tons of reserve raisins released for free use in September 2001 through an export program, equates to about 388,174 tons of natural condition

raisins, or about 363,940 tons of packed raisins, that were actually under the control of handlers for free use or primary markets. This is about 131 percent of the quantity of NS raisins shipped during the 2000–01 crop year (295,477 natural condition tons or 277,030 packed tons).

For OS raisins, a total of 1,108 tons were made available to handlers through 10 plus 10 offers in February 2002, and 407 tons were purchased. Adding the 407 tons of 10 plus 10 raisins to the 2,800-ton trade demand figure, plus 4,273 tons of 2000–01 carryin inventory equates to 7,480 tons of natural condition raisins, or about 6,843 tons of packed raisins, that were actually under the control of handlers for free use or primary markets. This is about 135 percent of the quantity of OS raisins shipped during the 2000–01 crop year (5,544 tons natural condition tons or 5,072 packed tons).

In addition to the 10 plus 10 offers, § 989.67(j) of the order provides authority for sales of reserve raisins to handlers under certain conditions such as a national emergency, crop failure, change in economic or marketing conditions, or if free tonnage shipments in the current crop year exceed shipments of a comparable period of the prior crop year. Such reserve raisins may be sold by handlers to any market. When implemented, the additional offers of reserve raisins make even more raisins available to primary markets which is consistent with the USDA's Guidelines.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

Since 1949, the California raisin industry has operated under a Federal marketing order. The order contains authority to, among other things, limit the portion of a given year's crop that can be marketed freely in any outlet by raisin handlers. This volume control mechanism is used to stabilize supplies and prices and strengthen market conditions.

Pursuant to § 989.54(d) of the order, this rule continues in effect final volume regulation percentages for 2001–02 crop NS and OS raisins. The volume regulation percentages are 63 percent free and 37 percent reserve for both NS and OS raisins. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through certain programs authorized under the order.

Volume regulation is warranted this season for NS raisins because the crop estimate of 372,499 tons combined with the carryin inventory of 116,131 tons, plus 32,193 tons of reserve raisins released for free use in September 2001 through an export program, plus 34,414 tons of reserve raisins released to-date for free use through another export program, results in a total available supply of 555,237 tons, which is 135 percent higher than the 235,850-ton trade demand. Volume regulation is warranted for OS raisins this season because the crop estimate of 4,416 tons combined with the carryin inventory of 4,273 tons results in a total available supply of 8,689 tons, which is significantly higher than the 2,800-ton trade demand.

Many years of marketing experience led to the development of the current volume regulation procedures. These procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The current volume regulation procedures fully supply the domestic and export markets, provide for market expansion, and help reduce the burden of oversupplies in the domestic market.

Raisin grapes are a perennial crop, so production in any year is dependent upon plantings made in earlier years. The sun-drying method of producing raisins involves considerable risk because of variable weather patterns.

Even though the product and the industry are viewed as mature, the industry has experienced considerable change over the last several decades. Before the 1975–76 crop year, more than 50 percent of the raisins were packed and sold directly to consumers. Now, over 60 percent of raisins are sold in bulk. This means that raisins are now sold to consumers mostly as an ingredient in other products such as cereal and baked goods. In addition, for a few years in the early 1970's, over 50 percent of the raisin grapes were sold to the wine market for crushing. Since then, the percent of raisin-variety grapes sold to the wine industry has decreased.

California's grapes are classified into three groups—table grapes, wine grapes, and raisin-variety grapes. Raisin-variety grapes are the most versatile of the three types. They can be marketed as fresh grapes, crushed for juice in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets, as well as weather-related factors, cause fluctuations in raisin supply. This type of situation introduces a certain amount of variability into the raisin market. Although the size of the crop for raisin-variety grapes may be known, the amount dried for raisins depends on the demand for crushing. This makes the marketing of raisins a more difficult task. These supply fluctuations can result in producer price instability and disorderly market conditions.

Volume regulation is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. For example, producer prices for NS raisins remained fairly steady between the 1992–93 through the 1997–98 seasons, although production varied. As shown in the table below, during those years, production varied from a low of 272,063 tons in 1996–97 to a high of 387,007 tons in 1993–94, or about 42 percent. According to Committee data, the total producer return per ton during those years, which includes proceeds from both free tonnage plus reserve pool raisins, has varied from a low of $901 in 1992–93 to a high of $1,049 in 1996–97, or 16 percent. Total producer prices for the 1998–99 and 1999–2000 seasons increased significantly due to back-to-back short crops during those years. Producer prices dropped dramatically for the 2000–01 season due primarily to record-size production.

NATURAL SEEDLESS PRODUCER PRICES

Crop Year	Deliveries (natural condition tons)	Producer Prices
2000–01	432,616	[1] $570.82
1999–2000	299,910	1,211.25
1998–99	240,469	[2] 1,290.00
1997–98	382,448	946.52
1996–97	272,063	1,049.20
1995–96	325,911	1,007.19
1994–95	378,427	928.27
1993–94	387,007	904.60
1992–93	371,516	901.41

[1] Return to date, reserve pool still open.
[2] No volume regulation.

There are essentially two broad markets for raisins—domestic and export. In recent years, both export and domestic shipments have been decreasing. Domestic shipments decreased from a high of 204,805 packed tons during the 1990–91 crop year to a low of 156,325 packed tons in 1999–2000. In addition, exports decreased from 114,576 packed tons in 1991–92 to a low of 91,600 packed tons in the 1999–2000 crop year.

In addition, the per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.55 pounds in 2000. This decrease is consistent with the decrease in the per capita consumption of dried fruits in general, which is due to the increasing availability of most types of fresh fruit through out the year.

While the overall demand for raisins has been decreasing (as reflected in the decline in commercial shipments), production has been increasing. Deliveries of dried raisins from producers to handlers reached an all-time high of 432,616 tons in the 2000–01 crop year. This large crop was preceded by two short crop years; deliveries were 240,469 tons in 1998–99 and 299,910 tons in 1999–2000. Deliveries for the 2000–01 crop year soared to a record level because of increased bearing acreage and yields. Estimated production is more moderate at 372,499 tons in 2001–02. However, with 2000–01 carryin inventory totaling 116,131 tons, total available supply is quite large.

The order permits the industry to exercise supply control provisions, which allow for the establishment of free and reserve percentages, and the establishment of a reserve pool. One of the primary purposes of establishing free and reserve percentages is to equilibrate supply and demand. If raisin markets are over-supplied with product, grower prices will decline.

Raisins are generally marketed at relatively lower price levels in the more elastic export market than in the more inelastic domestic market. This results in a larger volume of raisins being marketed and enhances grower returns. In addition, this system allows the U.S. raisin industry to be more competitive in export markets.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been constructed. The model developed is for the purpose of estimating nominal prices under a number of scenarios using the volume control authority under the Federal marketing order. The price growers receive for the harvest and delivery of their crop is largely determined by the level of production and the volume of carryin inventories. The Federal marketing order permits the industry to exercise supply control provisions, which allow for the establishment of reserve and free percentages for primary markets, and a reserve pool. The establishment of reserve percentages impacts the production that is marketed in the primary markets.

The reserve percentage limits what handlers can market as free tonnage. Assuming the 37 percent reserve limits the total free tonnage to 234,674 natural condition tons (.63 × 372,499 tons) and carryin is 116,131 natural condition tons, and purchases from reserve total 74,193 natural condition tons (which includes anticipated reserve raisins released through the export program and other purchases), then the total free supply is estimated at 424,998 natural condition tons. The econometric model estimates prices to be $123 per ton higher than under an unregulated scenario. This price increase is beneficial to all growers regardless of size and enhances growers' total revenues in comparison to no volume control. Establishing a reserve allows the industry to help stabilize supplies in both domestic and export markets, while improving returns to producers.

Regarding OS raisins, OS raisin production is much smaller than NS raisin production. Volume regulation is warranted this season because the available supply significantly exceeds the trade demand. In assessing the impact of OS regulation, the Committee addressed concerns raised by some handlers who were facing difficulties under the initial preliminary percentages of 20 percent free and 80 percent reserve. Volume regulation has not been implemented for OS raisins since the 1994–95 season. Some handlers who developed markets since that time, in the absence of volume regulation, were having difficulties meeting their customers' needs under the preliminary percentages established. The merits of suspending volume regulation were deliberated by the Committee. However, the majority of Committee members supported some level of regulation. The Committee ultimately determined that the OS trade demand should be increased to 2,800 tons which resulted in less restrictive volume regulation percentages.

Free and reserve percentages are established by varietal type, and usually in years when the supply exceeds the trade demand by a large enough margin that the Committee believes volume regulation is necessary to maintain market stability. Accordingly, in assessing whether to apply volume regulation or, as an alternative, not to apply such regulation, the Committee recommended that only two of the ten raisin varietal types defined under the order be subject to volume regulation this season.

The free and reserve percentages established by this rule release the full trade demands and apply uniformly to all handlers in the industry, regardless of size. For NS raisins, with the exception of the 1998–99 crop year, small and large raisin producers and handlers have been operating under volume regulation percentages every year since 1983–84. There are no known additional costs incurred by small handlers that are not incurred by large handlers. While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact small and large handlers positively by helping them maintain and expand markets even though raisin supplies fluctuate widely from season to season. Likewise, price stability positively impacts small and large producers by allowing them to better anticipate the revenues their raisins will generate.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The requirements are the same as those applied in past seasons. Thus, this action imposes no additional reporting or recordkeeping burdens on either small or large handlers. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. The information collection and recordkeeping

requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with other similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, Committee and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members, including small business entities, and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

An interim final rule concerning this action was published in the **Federal Register** on April 3, 2002 (64 FR 15707). Copies of the rule were mailed by Committee staff to all Committee members and alternates, the Raisin Bargaining Association, handlers and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day comment period that ended on June 3, 2002. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 67 FR 15707 on April 3, 2002, is adopted as a final rule without change.

Dated: July 15, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–18257 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

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

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') amends its Appliance Labeling Rule (''Rule'') by publishing new ranges of comparability to be used on required labels for standard and compact dishwashers. The Commission is also publishing minor and conforming changes to the requirements for EnergyGuide labels for dishwashers.

EFFECTIVE DATES: The amendments to § 305.11, Appendix C2 to part 305 (ranges for standard-size dishwashers), and Appendix L to part 305 will become effective September 17, 2002. The amendments to Appendix C1 to part 305 establishing new ranges of comparability for compact dishwashers will become effective March 22, 2003.

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

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 (''EPCA'').[1] The Rule covers several categories of major household appliances including dishwashers.

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an ''Energy Guide'' label and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.[2]These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

I. 2002 Dishwasher Data

A. New Ranges

The Commission has analyzed the annual data submissions for dishwashers. The data submissions show significant change in the high or low ends of the range of comparability scale for standard and compact models.[3] Accordingly, the Commission is publishing new ranges of comparability for standard and compact dishwashers. These new ranges of comparability

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

[2] Reports for dishwashers are usually due June 1. For reasons detailed in the **Federal Register** on May 17, 2002 (67 FR 35006), this submission date was changed to June 17 for 2002 submissions.

[3] The Commission's classification of ''Standard'' and ''Compact'' dishwashers is based on internal load capacity. Appendix C of the Commission's Rule defines ''Compact'' as including countertop dishwasher models with a capacity of fewer than eight (8) place settings and ''Standard'' as including portable or built-in dishwasher models with a capacity of eight (8) or more place settings. The Rule requires that place settings be determined in accordance with appendix C to 10 CFR Part 430, subpart B, of DOE's energy conservation standards program.

supersede the current ranges for compact-sized dishwashers (Appendix C1), which were published on September 28, 2001, and for standard dishwashers (Appendix C2), which were published on August 25, 1997. As of the effective date of these new ranges, manufacturers of these dishwashers must base the disclosures of estimated annual operating cost required at the bottom of EnergyGuide labels for compact-sized dishwashers on the 2002 Representative Average Unit Costs of Energy for electricity (8.28 cents per Kilo Watt-hour) and natural gas (65.6 cents per therm) that were published by DOE on April 24, 2002 (67 FR 20104) and by the Commission on June 7, 2002 (67 FR 39269).

B. Effective Dates

Section 326(c) of EPCA states that the Commission cannot require that labels be changed more often than annually to reflect changes in the ranges of comparability.[4] Because the effective date of the **Federal Register** document establishing the current ranges of comparability for compact-sized dishwashers was March 22, 2002, the effective date of today's revised ranges of comparability for compact-sized dishwashers will be March 22, 2003. All other amendments announced in this document, including the changes to the range for standard dishwashers in Appendix C2, will become effective September 17, 2002.

II. Labeling Under the New DOE Test Procedure

On December 18, 2001 (66 FR 65094), DOE published amendments to the test procedure that manufacturers must use to determine the energy use of their dishwashers. This new test became effective June 17, 2002. Among other things, the amended DOE test procedure reduces the number of annual cycles manufacturers must use in calculating their dishwashers' energy consumption. These changes uniformly have decreased the disclosed energy consumption for dishwashers. Under EPCA, all energy use representations (including information on the EnergyGuide labels) must reflect the amended test procedure beginning 180 days after the change in the procedure is prescribed (*i.e.*, June 17, 2002).[5] In a May 17, 2002 document (67 FR 35006), however, the Commission announced that it does not expect manufacturers to change their labels this year to reflect the amended test procedure until after the Commission publishes new ranges of comparability based on the new DOE test. In other words, the Commission is exercising discretion to not take law enforcement action against manufacturers that have waited to account for the new test procedure on their labels until the Commission provided notice about new ranges for dishwashers. In this document, the Commission has now published new ranges of comparability. Accordingly, manufacturers now have the necessary information to label their products to reflect the products' energy use based on the results of the new test procedures and the new ranges of comparability (also based on data derived from the new test procedure).

III. Minor, Conforming Changes to the EnergyGuide Label

The new ranges published here and the new DOE test procedure also require a change to the explanatory information provided on EnergyGuide labels for dishwashers. Currently, § 305.11(a)(5)(i)(H)(*2*) of the Rule requires dishwasher labels to contain language indicating that the information on the label is based on ''six washloads a week.'' Because the new DOE test procedure requires manufacturers to assume 264 cycles per year instead of 322 in their calculation, the explanatory language on the EnergyGuide label must now be changed to state that the information is based on ''five washloads'' a week. The Commission is amending the requirements in § 305.11 and sample label 4 in Appendix L to effect these minor and conforming changes. The Commission is also amending cost information in sample label 4 to reflect this year's energy cost information as published by DOE (67 FR 20104) and the Commission (67 FR 39269).

IV. Administrative Procedure Act

The amendments published in this document involve routine, technical and minor, or conforming changes to the labeling requirements in the Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. The minor or conforming amendments require changes to the EnergyGuide label so that the information is accurate and reflects recent changes that DOE has made to the test procedures for these products. Accordingly, the Commission finds for good cause that public comment for these technical, procedural amendments is impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

V. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. These technical amendments merely provide a routine change to the range information required on EnergyGuide labels. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

In a June 13, 1988 document (53 FR 22106), the Commission stated that the Rule contains disclosure and reporting requirements that constitute ''information collection requirements'' as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.[6] The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget (''OMB'') and assigned OMB Control No. 3084–0068. OMB has reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

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

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

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

Authority: 42 U.S.C. 6294.

2. Section 305.11(a)(5)(i)(H)(*2*) is revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *

(5) * * *

[4] 42 U.S.C. 6296(c).

[5] 42 U.S.C. 6293(c).

[6] 44 U.S.C. 3501–3520.

(i) * * *

(H) * * *

(*2*) For clothes washers and dishwashers, the statement will read as follows (fill in the blanks with the appropriate appliance name, the operating cost, the number of loads per week, the year, and the energy cost figures):

[Clothes Washers, or Dishwashers] using more energy cost more to operate. This model's estimated yearly operating cost is: [Electric cost figure will be boxed] when used with an electric water heater [Gas cost figure will be boxed] when used with a natural gas water heater.

Based on [5 washloads a week for dishwashers, or 8 washloads a week for clothes washers], and a [Year] U.S. Government national average cost of $—— per KWh for electricity and $—— per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

* * * * *

3. Appendix to Part 305 is revised to read as follows:

Appendix C1 to Part 305—Compact Dishwashers

Range Information

''Compact'' includes countertop dishwasher models with a capacity of fewer than eight (8) place settings. Place settings shall be in accordance with appendix C to 10 CFR Part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

Capacity Compact	Range of estimated annual energy consumption (k Wh/yr.)	
	Low	High
Compact	176	176

Cost Information

When the above ranges of comparability are used on Energy Guide labels for compact-sized dishwashers, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2002 Representative Average Unit Costs for electricity (8.28¢ per kilo Watt-hour) and natural gas (65.6¢ per therm), and the text below the box must identify the costs as such.

* * * * *

4. Appendix C2 to Part 305 is revised to read as follows:

Appendix C2 to Part 305—Standard Dishwashers

Range Information

''Standard'' includes portable or built-in dishwasher models with a capacity of eight (8) or more place settings. Place settings shall be in accordance with appendix C to 10 CFR part 430, subpart B. Load patterns shall conform to the operating normal for the model being tested.

Capacity	Range of estimated annual energy consumption (k Wh/yr.)	
	Low	High
Standard	312	573

Cost Information

When the above ranges of comparability are used on Energy Guide labels for standard-sized dishwashers, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 2002 Representative Average Unit Costs for electricity (8.28¢ per kilo Watt-hour) and natural gas (65.6¢ per therm), and the text below the box must identify the costs as such.

5. Appendix L to part 305 is amended by revising Sample Label 4 to read as follows:

Appendix L to Part 305—Sample Labels

* * * * *

BILLING CODE 6750–01–M

Based on standard U.S. Government tests

ENERGYGUIDE

Dishwasher
Capacity: Standard

XYZ Corporation
Model(s) MR328, XI12, NAA83

Compare the Energy Use of this Dishwasher with Others Before You Buy.

This Model Uses
500kWh/year

Energy use (kWh/year) range of all similar models

Uses Least Energy	Uses Most Energy
312	573

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only standard size dishwashers are used in this scale.

Dishwashers using more energy cost more to operate. This model's estimated yearly operating cost is:

$41	$27
When used with an electric water heater	When used with a natural gas water heater

Based on five washloads a week, and a 2002 U.S. Government national average cost of 8.28¢ per kWh for electricity and 65.6¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 4

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–18114 Filed 7–18–02; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 02–37]

RIN 1515—AC86

Import Restrictions Imposed on Pre-Classical and Classical Archaeological Material Originating in Cyprus

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological material originating in Cyprus and representing the pre-Classical and Classical periods of its cultural heritage, ranging in date from approximately the 8th millennium B.C. to approximately 330 A.D. These restrictions are being imposed pursuant to an agreement between the United States and the Republic of Cyprus that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document amends the Customs Regulations by adding Cyprus to the list of countries for which an agreement has been entered into for imposing import restrictions. The document also contains the Designated List of Archaeological Material that describes the types of articles to which the restrictions apply.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Joseph Howard, Intellectual Property Rights Branch (202) 572–8701; (Operational Aspects) Al Morawski, Trade Operations (202) 927–0402.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the ''Convention on Cultural Property Implementation Act'' (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (''the Act'').

This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and to achieving greater international understanding of mankind's common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries. More information on import restrictions can be found on the International Cultural Property Protection web site (http://exchanges.state.gov/culprop).

Import restrictions are now being imposed on certain archaeological material of Cyprus representing the pre-Classical and Classical periods of its cultural heritage as the result of a bilateral agreement entered into between the United States and the Republic of Cyprus. This agreement was entered into on July 16, 2002, pursuant to the provisions of 19 U.S.C. 2602. Accordingly, § 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Cyprus. This document amends the regulations by imposing import restrictions on certain archaeological material from Cyprus as described below.

It is noted that emergency import restrictions on Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus were previously imposed and are still in effect. (See T.D. 99–35, published in the **Federal Register** (64 FR 17529) on April 12, 1999.) These emergency import restrictions are separate and independent from the restrictions published in this document.

Material Encompassed in Import Restrictions

In reaching the decision to recommend protection for the cultural patrimony of Cyprus, the Associate Director for Educational and Cultural Affairs of the former United States Information Agency determined that, pursuant to the requirements of the Act, the cultural patrimony of Cyprus is in jeopardy from the pillage of archaeological materials which represent its pre-Classical and Classical heritage. Dating from approximately the 8th millennium B.C. to approximately 330 A.D., categories of restricted artifacts include ceramic vessels, sculpture, and inscriptions; stone vessels, sculpture, architectural elements, seals, amulets, inscriptions, stelae, and mosaics; metal vessels, stands sculpture, and personal objects. These materials are of cultural significance because Cypriot culture is among the oldest in the Mediterranean. While Cypriot culture derives from interactions with neighboring societies, it is uniquely Cypriotic in character and represents the history and development of the island about which important information continues to be found through *in situ* archaeological research.

The restrictions imposed in this document apply to objects from throughout the island of Cyprus.

Designated List

The bilateral agreement between Cyprus and the United States covers the categories of artifacts described in a Designated List of Archaeological Material from Cyprus, which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by an appropriate export certificate issued by the Government of the Republic of Cyprus or documentation demonstrating that the articles left the country of origin prior to the effective date of the import restriction.

Archaeological Material From Cyprus Representing Pre-Classical and Classical Periods Ranging in Date From Approximately the 8th Millennium B.C. to Approximately 330 A.D.

I. Ceramic

A. Vessels

1. Neolithic and Chalcolithic (c. 7500–2300 B.C.)—Bowls and jars, including spouted vessels. Varieties include Combed ware, Black Lustrous ware, Red Lustrous ware, and Red-on-White painted ware. Approximately 10–24 cm in height.

2. Early Bronze Age (c. 2300–1850 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, and specialized forms, such as askoi, pyxides, gourd-shape, multiple-body vessels, and vessels with figurines attached. Cut-away spouts, multiple spouts, basket handles, and round bases commonly occur. Incised, punctured, molded, and applied ornament, as well as polishing and slip, are included in the range of decorative techniques. Approximately 13–60 cm in height.

3. Middle Bronze Age (c. 1850–1550 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, zoomorphic askoi, bottles, amphorae, and amphoriskoi. Some have multiple spouts and basket or ribbon handles. Decorative techniques include red and brown paint, incised or applied decoration, and polishing. Varieties include Red Polished ware, White Painted ware, Black Slip ware, Red Slip ware, and Red-on-Black ware. Approximately 4–25 cm in height.

4. Late Bronze Age (c. 1550–1050 B.C.)—Forms include bowls, jars, jugs and juglets, tankards, rhyta, bottles, kraters, alabastra, stemmed cups, cups, stirrup jars, amphorae, and amphoriskoi. A wide variety of spouts, handles, and bases are common. Zoomorphic vessels also occur. Decorative techniques include painted design in red or brown, polishing, and punctured or incised decoration. Varieties include White Slip, Base Ring ware, White Shaved ware, Red Lustrous ware, Bichrome Wheel-made ware, and Proto-White Painted ware. Some examples of local or imported Mycenaean Late Helladic III have also been found. Approximately 5–50 cm in height.

5. Cypro-Geometric I–III (c. 1050–750 B.C.)—Forms include bowls, jugs, juglets, jars, cups, skyphoi, amphorae, amphoriskos, and tripods. A variety of spouts, handles and base forms are used. Decorative techniques include paint in dark brown and red, ribbing, polish, and applied projections. Varieties include White Painted I–II wares, Black Slip I–II wares, Bichrome II–III wares, and Black-on-Red ware. Approximately 7–30 cm in height.

6. Cypro-Archaic I–II (c. 750–475 B.C.)—Forms include bowls, plates, jugs and juglets, cups, kraters, amphoriskoi, oinochoe, and amphorae. Many of the forms are painted with bands, lines, concentric circles, and other geometric and floral patterns. Animal designs occur in the Free Field style. Molded decoration in the form of female figurines may also be applied. Red and dark brown paint is used on Bichrome ware. Black paint on a red polished surface is common on Black-on-Red ware. Other varieties include Bichrome Red, Polychrome Red, and Plain White. Approximately 12–45 cm in height.

7. Cypro-Classical I–II (c. 475–325 B.C.)—Forms include bowls, shallow dishes, jugs and juglets, oinochoai, and amphorae. The use of painted decoration in red and brown, as well as blue/green and black continues. Some vessels have molded female figurines applied. Decorative designs include floral and geometric patterns. Burnishing also occurs. Varieties include Polychrome Red, Black-on-Red, Polychrome Red, Stroke Burnished, and White Painted wares. Approximately 6–40 cm in height.

8. Hellenistic (c. 325 B.C.–50 B.C.)—Forms include bowls, dishes, cups, unguentaria, jugs and juglets, pyxides, and amphorae. Most of the ceramic vessels of the period are undecorated. Those that are decorated use red, brown, or white paint in simple geometric patterns. Ribbing is also a common decorative technique. Some floral patterns are also used. Varieties include Glazed Painted ware and Glazed ware. Imports include Megarian bowls. Approximately 5–25 cm in height.

9. Roman (c. 50 B.C.–330 A.D.)—Forms include bowls, dishes, cups, jugs and juglets, unguentaria, amphora, and cooking pots. Decorative techniques include incision, embossing, molded decoration, grooved decoration, and paint. Varieties include Terra Sigillata and Glazed and Green Glazed wares. Approximately 5–55 cm in height.

B. Sculpture

1. Terracotta Figurines (small statuettes)

(a) Neolithic to Late Bronze Age (c. 7500–1050 B.C.)—Figurines are small, hand-made, and schematic in form. Most represent female figures, often standing and sometimes seated and giving birth or cradling an infant. Features and attributes are marked with incisions or paint. Figurines occur in Red-on-White ware, Red Polished ware, Red-Drab Polished ware, and Base Ring ware. Approximately 10–25 cm in height.

(b) Cypro-Geometric to Cypro-Archaic (c. 1050–475 B.C.)—Figurines show a greater diversity of form than earlier figurines. Female figurines are still common, but forms also include male horse-and-rider figurines; warrior figures; animals such as birds, bulls and pigs; tubular figurines; boat models; and human masks. In the Cypro-Archaic period, terra cotta models illustrate a variety of daily activities, including the process of making pottery and grinding grain. Other examples include musicians and men in chariots. Approximately 7–19 cm in height.

(c) Cypro-Classical to Roman (c. 475 B.C.–330 A.D.)—Figurines mirror the classical tradition of Greece and Roman. Types include draped women, nude youths, and winged figures. Approximately 9–20 cm in height.

2. Large Scale Terracotta Figurines—Dating to the Cypro-Archaic period (c. 750–475 B.C.), full figures about half life-size, are commonly found in sanctuaries. Illustrated examples include the head of a woman decorated with rosettes and a bearded male with spiral-decorated helmet. Approximately 50–150 cm in height.

3. Funerary Statuettes—Dating to the Cypro-Classical period (c. 475–325 B.C.), these illustrate both male and female figures draped, often seated, as expressions of mourning. Approximately 25–50 cm in height.

C. Inscriptions

Writing on clay is restricted to the Late Bronze Age (c. 1550–1050 B.C.). These occur on clay tablets, weights, and clay balls. Approximately 2–7 cm in height.

II. Stone

A. Vessels

Ground stone vessels occur from the Neolithic to the Hellenistic period (c. 7500–50 B.C.). Early vessels are from local hard stone. Most are bowl-shaped; some are trough-shaped with spouts and handles. Neolithic vessels often have incised or perforated decoration. Late Bronze Age vessels include amphoriskoi and kraters with handles. Sometimes these have incised decoration. Alabaster was also used for stone vessels in the Late Bronze Age and Hellenistic period. In the latter period, stone vessels are produced in the same shapes as ceramic vessels: amphorae, unguentaria, etc. Approximately 10–30 cm in height.

B. Sculpture

1. *Neolithic to Chalcolithic (c. 7500–2300 B.C.)*—Forms include small scale

human heads, fiddle-shaped human figures, steatopygous female figures, cruciform idols with incised decoration, and animal figures. Andesite and limestone are commonly used in these periods. Approximately 5–30 cm in height.

2. *Cypro-Classical* (c. 475–325 B.C.)—Small scale to life-size human figures, whole and fragments, in limestone and marble, are similar to the Classical tradition in local styles. Examples include the limestone head of a youth in Neo-Cypriote style, votive female figures in Proto-Cypriot style, a kouros in Archaic Greek style, statues and statuettes representing Classical gods such as Zeus and Aphrodite, as well as portrait heads of the Greek and Roman periods. Approximately 10–200 cm in height.

C. Architectural Elements

Sculpted stone building elements occur from the 5th century B.C. through the 3rd century A.D. These include columns and column capitals, relief decoration, chancel panels, window frames, revetments, offering tables, coats of arms, and gargoyles.

D. Seals

Dating from the Neolithic (7500 B.C.) through 3rd century A.D., conical seals, scarabs, cylinder seals, and bread stamps are incised with geometric decoration, pictoral scenes, and inscriptions. Approximately 2–12 cm in height.

E. Amulets and Pendants

Dating to the Chalcolithic period, these pendants are made of picrolite and are oval or rectangular in form. Approximately 4–5 cm in length.

F. Inscriptions

Inscribed stone materials date from the 6th century B.C. through the 3rd century A.D. During the Cypro-Classical period, funerary stelae, and votive plaques were inscribed. From the 1st to the 3rd century A.D. funerary plaques, mosaic floors, and building plaques were inscribed.

G. Funerary Stelae (uninscribed)

Funerary stelae date from the 6th century B.C. to the end of the Hellenistic period (c. 50 B.C.). Marble and other stone sculptural monuments have relief decoration of animals or human figures seated or standing. Stone coffins also have relief decoration. Approximately 50–155 cm in height.

H. Floor Mosaics

Floor mosaics date as early as the 4th century B.C. in domestic and public contexts and continue to be produced through the 3rd century A.D. Examples include the mosaics at Nea Paphos, Kourion, and Kouklia.

III. Metal

A. Copper/Bronze

1. Vessels—Dating from the Bronze Age (c. 2300 B.C.) through the 3rd century A.D., bronze vessel forms include bowls, cups, amphorae, jugs, juglets, pyxides, dippers, lamp stands, dishes, and plates. Approximately 4–30 cm in height.

2. Bronze Stands—Dating from the Late Bronze Age (c. 1550 B.C.) through the end of the Classical period (c. 325 B.C.), are bronze stands with animal decoration.

3. Sculpture—Dating from the Late Bronze Age (c. 1550) to the end of the Hellenistic period (c. 50 B.C.), small figural sculpture includes human forms with attached attributes such as spears or goblets, animal figures, animal- and vessel-shaped weights, and Classical representations of gods and mythological figures. Approximately 5–25 cm in height.

4. *Personal Objects*—Dating from the Early Bronze Age (c. 2300 B.C.) to the end of the Roman period (330 A.D.), forms include toggle pins, straight pins, fibulae, and mirrors.

B. Silver

1. *Vessels*—Dating from the Bronze Age (c. 2300 B.C.) through the end of the Roman period (330 A.D.), forms include bowls, dishes, coffee services, and ceremonial objects such as incense burners. These are often decorated with molded or incised geometric motifs or figural scenes.

2. *Jewelry*—Dating from the Cypro-Geometric period (c. 1050 B.C.) through the end of the Roman period (330 A.D.), forms include fibulae, rings, bracelets, and spoons.

C. Gold Jewelry

Gold jewelry has been found on Cyprus from the Early Bronze Age (c. 2300 B.C.) through the end of the Roman period (330 A.D.). Items include hair ornaments, bands, frontlets, pectorals, earrings, necklaces, rings, pendants, plaques, beads, and bracelets.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed cultural property of Cyprus is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a ''significant regulatory action'' as described in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

2. In § 12.104g, paragraph (a), the list of agreements imposing import restrictions on described articles of cultural property of State Parties, is amended by adding Cyprus in appropriate alphabetical order as follows:

State	Cultural property	T.D. No.
* * *	* * * * * *	
Cyprus	Archaeological Material of pre-Classical and Classical periods ranging approximately from the 8th millennium B.C. to 330 A.D..	T.D. 02–37
* * *	* * * * * *	

* * * * *

Dated: July 16, 2002.

Robert C. Bonner,

Commissioner of Customs.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–18342 Filed 7–17–02; 10:29 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Fenbendazole Granules

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 a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA provides for change from prescription to over-the-counter marketing status for the oral use in dogs of fenbendazole granules for removal of certain internal parasites.

DATES: This rule is effective July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, *mberson@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966, filed a supplement to NADA 121–473 that provides for oral use in dogs of PANACUR–C (fenbendazole) Granules 22.2% for removal of certain internal parasites. The supplemental NADA provides for change from prescription to over-the-counter marketing status. The supplemental NADA is approved as of March 19, 2002, and the regulations are amended in 21 CFR 520.905b to reflect the approval. The basis of approval is discussed in the freedom of information summary. Section 520.905b is also being revised to reflect a current format.

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, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(d)(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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.905b is amended by redesignating paragraph (c) as paragraph (d); by adding new paragraph (c); by removing the last sentence in newly designated paragraphs (d)(1)(iii) and (d)(2)(iii); by revising paragraphs (a), and newly designated (d)(1)(i), (d)(2)(i), and (d)(3)(i) to read as follows:

§ 520.905b Fenbendazole granules.

(a) *Specifications*. Each gram of granules contains 222 milligrams (mg) fenbendazole.

* * * * *

(c) *Special considerations*. See § 500.25 of this chapter.

(d) *Conditions of use*—(1) *Horses*—(i) *Amount*. 5 mg/kilogram (kg) for large strongyles, small strongyles, and pinworms; 10 mg/kg for ascarids.

* * * * *

(2) *Dogs*—(i) *Amount*. 50 mg/kg daily for 3 consecutive days.

* * * * *

(3) *Zoo and wildlife animals*—(i) *Amount*. 10 mg/kg per day for 3 days.

* * * * *

Dated: July 8, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–18177 Filed 7–18–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

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 a supplemental abbreviated new animal drug application (ANADA) filed by Pliva d.d. The supplemental ANADA provides for the subcutaneous administration of an oxytetracycline injectable solution to cattle, and for its use in lactating dairy cattle.

DATES: This rule is effective July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–101), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia, filed a supplement to approved ANADA 200–232 that provides for the use of GEOMYCIN 200 (oxytetracycline)

Injection as a treatment for various bacterial diseases in cattle and swine. The supplemental ANADA provides for the subcutaneous administration of this oxytetracycline injectable solution to cattle, and for its use in lactating dairy cattle. The supplemental application is approved as of April 8, 2002, and the regulations are amended in 21 CFR 522.1660d to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subject in 21 CFR Part 522

Animal drugs.

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 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

§ 522.1660 [Amended]

2. Section 522.1660 *Oxytetracycline injection* is amended in paragraph (d)(1)(iii) in the second sentence by numerically adding ''011722,''; in the eighth sentence by removing ''011722,''; and in the ninth sentence by removing ''sponsor 000069'' and by adding in its place ''sponsors 000069 and 011722''.

Dated: July 11, 2002.

Andrew J. Beaulieu,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 02–18178 Filed 7–18–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9004]

RIN 1545–AW98

Real Estate Mortgage Investment Conduits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to safe harbor transfers of noneconomic residual interests in real estate mortgage investment conduits (REMICs). The final regulations provide additional limitations on the circumstances under which transferors may claim safe harbor treatment.

DATES: *Effective Date:* These regulations are effective July 19, 2002.

Applicability Date: For dates of applicability, *see* § 1.860E–(1)(c)(10).

FOR FURTHER INFORMATION CONTACT: Courtney Shepardson at (202) 622–3940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information in this final rule has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545–1675.

The collection of information in this regulation is in § 1.860E–1(c)(5)(ii). This information is required to enable the IRS to verify that a taxpayer is complying with the conditions of this regulation. The collection of information is mandatory and is required. Otherwise, the taxpayer will not receive the benefit of safe harbor treatment as provided in the regulation. The likely respondents are businesses and other for-profit institutions.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC, 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by September 17, 2002. Comments are specifically requested concerning:

Whether the collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

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

The estimated total annual reporting burden is 470 hours, based on an estimated number of respondents of 470 and an estimated average annual burden hours per respondent of one hour.

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

Background

This document contains final regulations regarding the proposed amendments to 26 CFR part 1 under section 860E of the Internal Revenue Code (Code). The regulations provide the circumstances under which a transferor of a noneconomic REMIC residual interest meeting the investigation and representation requirements may avail itself of the safe harbor by satisfying either the formula test or the asset test.

Final regulations governing REMICs, issued in 1992, contain rules governing the transfer of noneconomic REMIC residual interests. In general, a transfer of a noneconomic residual interest is disregarded for all tax purposes if a significant purpose of the transfer is to

enable the transferor to impede the assessment or collection of tax. A purpose to impede the assessment or collection of tax (a wrongful purpose) exists if the transferor, at the time of the transfer, either knew or should have known that the transferee would be unwilling or unable to pay taxes due on its share of the REMIC's taxable income.

Under a safe harbor, the transferor of a REMIC noneconomic residual interest is presumed not to have a wrongful purpose if two requirements are satisfied: (1) the transferor conducts a reasonable investigation of the transferee's financial condition (the investigation requirement); and (2) the transferor secures a representation from the transferee to the effect that the transferee understands the tax obligations associated with holding a residual interest and intends to pay those taxes (the representation requirement).

The IRS and Treasury have been concerned that some transferors of noneconomic residual interests claim they satisfy the safe harbor even in situations where the economics of the transfer clearly indicate the transferee is unwilling or unable to pay the tax associated with holding the interest. For this reason, on February 7, 2000, the IRS published in the **Federal Register** (65 FR 5807) a notice of proposed rulemaking (REG–100276–97; REG–122450–98) designed to clarify the safe harbor by adding the ''formula test,'' an economic test. The proposed regulation provides that the safe harbor is unavailable unless the present value of the anticipated tax liabilities associated with holding the residual interest does not exceed the sum of: (1) The present value of any consideration given to the transferee to acquire the interest; (2) the present value of the expected future distributions on the interest; and (3) the present value of the anticipated tax savings associated with holding the interest as the REMIC generates losses.

The notice of proposed rulemaking also contained rules for FASITs. Section 1.860H–6(g) of the proposed regulations provides requirements for transfers of FASIT ownership interests and adopts a safe harbor by reference to the safe harbor provisions of the REMIC regulations.

In January 2001, the IRS published Rev. Proc. 2001–12 (2001–3 I.R.B. 335) to set forth an alternative safe harbor that taxpayers could use while the IRS and the Treasury considered comments on the proposed regulations. Under the alternative safe harbor, if a transferor meets the investigation requirement and the representation requirement but the transfer fails to meet the formula test, the transferor may invoke the safe harbor if the transferee meets a two-prong test (the asset test). A transferee generally meets the first prong of this test if, at the time of the transfer, and in each of the two years preceding the year of transfer, the transferee's gross assets exceed $100 million and its net assets exceed $10 million. A transferee generally meets the second prong of this test if it is a domestic, taxable corporation and agrees in writing not to transfer the interest to any person other than another domestic, taxable corporation that also satisfies the requirements of the asset test. A transferor cannot rely on the asset test if the transferor knows, or has reason to know, that the transferee will not comply with its written agreement to limit the restrictions on subsequent transfers of the residual interest.

Rev. Proc. 2001–12 provides that the asset test fails to be satisfied in the case of a transfer or assignment of a noneconomic residual interest to a foreign branch of an otherwise eligible transferee. If such a transfer or assignment were permitted, a corporate taxpayer might seek to claim that the provisions of an applicable income tax treaty would resource excess inclusion income as foreign source income, and that, as a consequence, any U.S. tax liability attributable to the excess inclusion income could be offset by foreign tax credits. Such a claim would impede the assessment or collection of U.S. tax on excess inclusion income, contrary to the congressional purpose of assuring that such income will be taxable in all events. *See,* e.g., sections 860E(a)(1), (b), (e) and 860G(b) of the Code.

The Treasury and the IRS have learned that certain taxpayers transferring noneconomic residual interests to foreign branches have attempted to rely on the formula test to obtain safe harbor treatment in an effort to impede the assessment or collection of U.S. tax on excess inclusion income. Accordingly, the final regulations provide that if a noneconomic residual interest is transferred to a foreign permanent establishment or fixed base of a U.S. taxpayer, the transfer is not eligible for safe harbor treatment under either the asset test or the formula test. The final regulations also require a transferee to represent that it will not cause income from the noneconomic residual interest to be attributable to a foreign permanent establishment or fixed base.

Section 1.860E–1(c)(8) provides computational rules that a taxpayer may use to qualify for safe harbor status under the formula test. Section 1.860E–1(c)(8)(i) provides that the transferee is presumed to pay tax at a rate equal to the highest rate of tax specified in section 11(b). Some commentators were concerned that this presumed rate of taxation was too high because it does not take into consideration taxpayers subject to the alternative minimum tax rate. In light of the comments received, this provision has been amended in the final regulations to allow certain transferees that compute their taxable income using the alternative minimum tax rate to use the alternative minimum tax rate applicable to corporations.

Additionally, § 1.860E–1(c)(8)(iii) provides that the present values in the formula test are to be computed using a discount rate equal to the applicable Federal short-term rate prescribed by section 1274(d). This is a change from the proposed regulation and Rev. Proc. 2001–12. In those publications the provision stated that ''present values are computed using a discount rate equal to the applicable Federal rate prescribed in section 1274(d) compounded semiannually'' and that ''[a] lower discount rate may be used if the transferee can demonstrate that it regularly borrows, in the course of its trade or business, substantial funds at such lower rate from an unrelated third party.'' The IRS and the Treasury Department have learned that, based on this provision, certain taxpayers have been attempting to use unrealistically low or zero interest rates to satisfy the formula test, frustrating the intent of the test. Furthermore, the Treasury Department and the IRS believe that a rule allowing for a rate other than a rate based on an objective index would add unnecessary complexity to the safe harbor. As a result, the rule in the proposed regulations that permits a transferee to use a lower discount rate, if the transferee can demonstrate that it regularly borrows substantial funds at such lower rate, is not included in the final regulations; and the Federal short-term rate has been substituted for the applicable Federal rate. To simplify taxpayers' computations, the final regulations allow use of any of the published short-term rates, provided that the present values are computed with a corresponding period of compounding. With the exception of the provisions relating to transfers to foreign branches, these changes generally have the proposed applicability date of February 4, 2000, but taxpayers may choose to apply the interest rate formula set forth in the proposed regulation and Rev. Proc. 2001–12 for transfers occurring before August 19, 2002.

It is anticipated that when final regulations are adopted with respect to

FASITs, § 1.860H–6(g) of the proposed regulations will be adopted in substantially its present form, with the result that the final regulations contained in this document will also govern transfers of FASIT ownership interests with substantially the same applicability date as is contained in this document.

Effect on Other Documents

Rev. Proc. 2001–12 (2001–3 I.R.B. 335) is obsolete for transfers of noneconomic residual interests in REMICs occurring on or after August 19, 2002.

Special Analyses

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that it is unlikely that a substantial number of small entities will hold REMIC residual interests. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that sections 553(b) and 553(d) of the Administrative Procedure Act (5 U.S.C. chapter 5) do not apply to these regulations.

Drafting Information

The principal author of these regulations is Courtney Shepardson. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and record keeping requirements.

26 CFR Part 602

Reporting and record keeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. In § 1.860A–0, entries in the outline for § 1.860E–1(c)(5) through (c)(10) are added to read as follows:

§ 1.860A–0 Outline of REMIC provisions.

* * * * *

§ 1.860E–1 Treatment of taxable income of a residual interest holder in excess of daily accruals.

* * * * *

(c) * * *

(5) Asset test.

(6) Definitions for asset test.

(7) Formula test.

(8) Conditions and limitations on formula test.

(9) Examples.

(10) Effective dates.

* * * * *

Par. 3. Section 1.860E–1 is amended as follows:

1. Paragraph (c)(4)(i) is amended by removing the language ''and'' at the end of the paragraph.

2. Paragraph (c)(4)(ii) is amended by removing the period at the end of the paragraph and adding a semicolon in its place.

3. Paragraphs (c)(4)(iii) and (c)(4)(iv) are added.

4. Paragraphs (c)(5) through (c)(10) are added.

The additions read as follows:

§ 1.860E–1 Treatment of taxable income of a residual interest holder in excess of daily accruals.

* * * * *

(c) * * *

(4) * * *

(iii) The transferee represents that it will not cause income from the noneconomic residual interest to be attributable to a foreign permanent establishment or fixed base (within the meaning of an applicable income tax treaty) of the transferee or another U.S. taxpayer; and

(iv) The transfer satisfies either the asset test in paragraph (c)(5) of this section or the formula test in paragraph (c)(7) of this section.

(5) *Asset test.* The transfer satisfies the asset test if it meets the requirements of paragraphs (c)(5)(i), (ii) and (iii) of this section.

(i) At the time of the transfer, and at the close of each of the transferee's two fiscal years preceding the transferee's fiscal year of transfer, the transferee's gross assets for financial reporting purposes exceed $100 million and its net assets for financial reporting purposes exceed $10 million. For purposes of the preceding sentence, the gross assets and net assets of a transferee do not include any obligation of any related person (as defined in paragraph (c)(6)(ii) of this section) or any other asset if a principal purpose for holding or acquiring the other asset is to permit the transferee to satisfy the conditions of this paragraph (c)(5)(i).

(ii) The transferee must be an eligible corporation (defined in paragraph (c)(6)(i) of this section) and must agree in writing that any subsequent transfer of the interest will be to another eligible corporation in a transaction that satisfies paragraphs (c)(4)(i), (ii), and (iii) and this paragraph (c)(5). The direct or indirect transfer of the residual interest to a foreign permanent establishment (within the meaning of an applicable income tax treaty) of a domestic corporation is a transfer that is not a transfer to an eligible corporation. A transfer also fails to meet the requirements of this paragraph (c)(5)(ii) if the transferor knows, or has reason to know, that the transferee will not honor the restrictions on subsequent transfers of the residual interest.

(iii) A reasonable person would not conclude, based on the facts and circumstances known to the transferor on or before the date of the transfer, that the taxes associated with the residual interest will not be paid. The consideration given to the transferee to acquire the noneconomic residual interest in the REMIC is only one factor to be considered, but the transferor will be deemed to know that the transferee cannot or will not pay if the amount of consideration is so low compared to the liabilities assumed that a reasonable person would conclude that the taxes associated with holding the residual interest will not be paid. In determining whether the amount of consideration is too low, the specific terms of the formula test in paragraph (c)(7) of this section need not be used.

(6) *Definitions for asset test.* The following definitions apply for purposes of paragraph (c)(5) of this section:

(i) *Eligible corporation* means any domestic C corporation (as defined in section 1361(a)(2)) other than—

(A) A corporation which is exempt from, or is not subject to, tax under section 11;

(B) An entity described in section 851(a) or 856(a);

(C) A REMIC; or

(D) An organization to which part I of subchapter T of chapter 1 of subtitle A of the Internal Revenue Code applies.

(ii) *Related person* is any person that—

(A) Bears a relationship to the transferee enumerated in section 267(b) or 707(b)(1), using ''20 percent'' instead of ''50 percent'' where it appears under the provisions; or

(B) Is under common control (within the meaning of section 52(a) and (b)) with the transferee.

(7) *Formula test.* The transfer satisfies the formula test if the present value of the anticipated tax liabilities associated

with holding the residual interest does not exceed the sum of—

(i) The present value of any consideration given to the transferee to acquire the interest;

(ii) The present value of the expected future distributions on the interest; and

(iii) The present value of the anticipated tax savings associated with holding the interest as the REMIC generates losses.

(8) *Conditions and limitations on formula test.* The following rules apply for purposes of the formula test in paragraph (c)(7) of this section.

(i) The transferee is assumed to pay tax at a rate equal to the highest rate of tax specified in section 11(b)(1). If the transferee has been subject to the alternative minimum tax under section 55 in the preceding two years and will compute its taxable income in the current taxable year using the alternative minimum tax rate, then the tax rate specified in section 55(b)(1)(B) may be used in lieu of the highest rate specified in section 11(b)(1).

(ii) The direct or indirect transfer of the residual interest to a foreign permanent establishment or fixed base (within the meaning of an applicable income tax treaty) of a domestic transferee is not eligible for the formula test.

(iii) Present values are computed using a discount rate equal to the Federal short-term rate prescribed by section 1274(d) for the month of the transfer and the compounding period used by the taxpayer.

(9) *Examples.* The following examples illustrate the rules of this section:

Example 1. Transfer to partnership. X transfers a noneconomic residual interest in a REMIC to Partnership *P* in a transaction that does not satisfy the formula test of paragraph (c)(7) of this section. *Y* and *Z* are the partners of *P*. Even if *Y* and *Z* are eligible corporations that satisfy the requirements of paragraph (c)(5)(i) of this section, the transfer fails to satisfy the asset test requirements found in paragraph (c)(5)(ii) of this section because *P* is a partnership rather than an eligible corporation within the meaning of (c)(6)(i) of this section.

Example 2. Transfer to a corporation without capacity to carry additional residual interests. During the first ten months of a year, Bank transfers five residual interests to Corporation *U* under circumstances meeting the requirements of the asset test in paragraph (c)(5) of this section. Bank is the major creditor of *U* and consequently has access to *U*'s financial records and has knowledge of *U*'s financial circumstances. During the last month of the year, Bank transfers three additional residual interests to *U* in a transaction that does not meet the formula test of paragraph (c)(7) of this section. At the time of this transfer, *U*'s financial records indicate it has retained the previously transferred residual interests. *U*'s financial circumstances, including the aggregate tax liabilities it has assumed with respect to REMIC residual interests, would cause a reasonable person to conclude that *U* will be unable to meet its tax liabilities when due. The transfers in the last month of the year fail to satisfy the investigation requirement in paragraph (c)(4)(i) of this section and the asset test requirement of paragraph (c)(5)(iii) of this section because Bank has reason to know that *U* will not be able to pay the tax due on those interests.

Example 3. Transfer to a foreign permanent establishment of an eligible corporation. R transfers a noneconomic residual interest in a REMIC to the foreign permanent establishment of Corporation *T*. Solely because of paragraph (c)(8)(ii) of this section, the transfer does not satisfy the formula test of paragraph (c)(7) of this section. In addition, even if *T* is an eligible corporation, the transfer does not satisfy the asset test because the transfer fails the requirements of paragraph (c)(5)(ii) of this section.

(10) *Effective dates.* Paragraphs (c)(4) through (c)(9) of this section are applicable to transfers occurring on or after February 4, 2000, except for paragraphs (c)(4)(iii) and (c)(8)(iii) of this section, which are applicable for transfers occurring on or after August 19, 2002. For the dates of applicability of paragraphs (a) through (c)(3) and (d) of this section, see § 1.860A–1.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.860E–1	1545–1675
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: July 10, 2002

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 02–18021 Filed 7–18–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 601

[TD 9006]

RIN 1545–AY68

Notice to Interested Parties

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the notice to interested parties requirement. Before the IRS can issue an advance determination regarding the qualification of a retirement plan, a plan sponsor must provide evidence that it has notified all persons who qualify as interested parties that an application for an advance determination will be filed with the IRS. These regulations set forth standards by which a plan sponsor may satisfy the notice to interested parties requirement. The final regulations affect retirement plan sponsors, plan participants and other interested parties with respect to a determination letter application, and certain representatives of interested parties.

DATES: Effective Date: These regulations are effective on July 19, 2002.

Applicability Date: These regulations apply to applications made on or after January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Pamela R. Kinard, (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR parts 1 and 601 under section 7476 of the Internal Revenue Code of 1986 (Code). On May 21, 1976, final regulations (TD 7421) under section 7476 were published in the **Federal Register** (41 FR 20874). These final regulations provide guidance on the nature and method of giving notice to interested parties. On January 17, 2001, a notice of proposed rulemaking (REG–129608–00) was published in the **Federal Register** (66 FR 3954), setting forth the proposed new standards for delivery of the notice to interested

parties. No public hearing was requested or held. Written comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. The revisions are discussed below.

Explanation of Provisions and Summary of Comments

A. Overview

Section 7476(b)(2) provides that, with respect to a pleading filed by a petitioner for a request for a determination on the qualified status of a retirement plan under section 7476(a), the United States Tax Court may find the pleading to be premature unless the petitioner establishes to the satisfaction of the Court that he has complied with the requirements prescribed by the regulations of the Secretary regarding the notice to interested parties of the filing of the request for a determination. Section 3001(a) of the Employee Retirement Income Security Act of 1974 (ERISA) provides that before issuing an advance determination regarding the qualification of a retirement plan, the Secretary of Treasury shall require that an applicant provide evidence satisfactory to the Secretary that the applicant has notified each employee who qualifies as an interested party of the application for a determination. The final regulations amend §§ 1.7476–2 and 601.201 regarding the nature and method of giving notices to interested parties. The final regulations generally adopt the standards in the proposed regulations. These final regulations provide that the notice may be provided by any method reasonably calculated to ensure that each interested party is notified of the application for determination. Whether a particular method of delivery satisfies this standard is determined on the basis of all the facts and circumstances. The final regulations retain the safe harbor provided in the proposed regulations for plans using an electronic medium to deliver the notice to interested parties. Under that safe harbor, a plan sponsor will be treated as satisfying the requirements under § 1.7476–2(c)(1) if the plan sponsor delivers the notice using an electronic medium under a system that satisfies the requirements of § 1.402(f)-1 Q&A–5.

B. Application of the Notification Requirement to Governmental Plans

Section 1.7476–1(b)(7) provides that § 1.7476–1(b), relating to the definition of interested parties, applies only to retirement plans filing an application for advance determination with the IRS that are subject to the requirements under section 410. Section 1.7476–1(c)(5) provides that in the case of an organization described in section 410(c)(1), which includes governmental plans within the meaning of section 414(d), section 410 will be considered to apply to a plan year of such organization for any plan year in which section 410(c)(2) applies to the plan.

Section 410(c)(1)(A) provides that the provisions of section 410 (other than section 410(c)(2)) do not apply to governmental plans within the meaning of section 414(d). Section 410(c)(2) provides that a governmental plan will be treated as meeting the requirements under section 410 for purposes of section 401(a). Prior to 1997, section 410(c)(2) provided that, in order to be treated as satisfying the requirements of section 410, a governmental plan must meet the requirements under section 401(a)(3) as in effect on September 1, 1974, relating to minimum participation standards. Section 1505(a)(1) of the Taxpayer Relief Act of 1997 (TRA ''97) (Public Law 105–34, 111 Stat. 788) added section 401(a)(5)(G), which provides that the nondiscrimination and minimum participation requirements under section 401(a)(3) and (4) do not apply to a governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof). Thus, section 410 no longer applies to such governmental plans.

One commentator requested clarification that the notice to interested parties requirement under section 7476 no longer applies to governmental plans after TRA ''97. Section 1.7476–1(b)(7) of the regulations limits the applicability of the notice to interested parties requirement to retirement plans that are subject to section 410 of the Code. Because a governmental plan established and maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof) is not subject to section 410 of the Code, it is also not subject to the notice to interested parties requirement.

C. Miscellaneous Comments

Proposed regulations under § 601.201(o)(3)(xv) provide that when the notice is given other than by mailing, it should be given not less than 7 days nor more than 21 days prior to the date that the application for a determination is made. When the notice is provided by mailing, prior final regulations under § 601.201(o)(3)(xv) provide that the notice be given not less than 10 days nor more than 24 days prior to the date that the application for a determination is made. One commentator requested clarification on whether the time period for providing notice by electronic mail is the same time period for when notice is given by a means other than postal mailing. In the interest of simplification, the final regulations provide a single time period for providing the notice. Under these final regulations, the notice must be given not less than 10 days nor more than 24 days prior to the date that the application for a determination is made. This time period applies to all methods of delivering the notice to interested parties. Taxpayers may continue to rely on the prior time periods until the applicability date of this Treasury decision.

Section 601.201(o)(3)(xvii) describes the procedures for providing additional informational material required by § 601.201(o)(3)(xviii), (xix), and (xx), to the extent that such information is not provided in the notice to interested parties. Such materials may include an updated copy of the plan and related trust agreement or the determination letter application. One commentator suggested that § 601.201(o)(3)(xvii) be revised to provide that any reasonable delivery method should be available for providing additional information to interested parties. The final regulations amend § 601.201(o)(3)(xvii) to clarify that the procedure for making materials related to an application for determination available to interested parties may include any delivery method or a combination thereof that reasonably ensures accessibility to all interested parties.

Section 601.201(o)(3)(xxi) provides that the notice to interested parties will be deemed given when it is given in person, posted as prescribed in the regulations under section 7476, or received through the mail. One commentator suggested that § 601.201(o)(3)(xxi) be revised to reflect the new standards by which a plan sponsor may satisfy the notice to interested parties requirement. The final regulations amend § 601.201(o)(3)(xxi) to clarify that the notice to interested parties required by § 601.201(o)(3)(xiv) shall be deemed given when the notice is posted or sent to the person in the manner prescribed in the regulations under section 7476.

Effective Date

These regulations apply to applications made on or after January 1, 2003. For applications made prior to that date, taxpayers may continue to rely on the standards set forth in the

prior final regulations or the proposed regulations published in the **Federal Register** on January 17, 2001 (66 FR 3954).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Pamela R. Kinard, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 601

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 601 are amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.7476–1 is amended by adding paragraph (e) to read as follows:

§ 1.7476–1 Interested parties.

* * * * *

(e) *Effective date.* The provisions of this section apply to applications referred to in paragraph (a) of this section made on or after June 21, 1976.

Par. 3. Section 1.7476–2 is amended as follows:

1. Paragraphs (b), (c), and (d) are revised.

2. Paragraph (e) is added.

The revisions and addition read as follows:

§ 1.7476–2 Notice to interested parties.

* * * * *

(b) *Nature of notice.* The notice required by this section shall—

(1) Contain the information and be given within the time period prescribed in § 601.201(o)(3) of this chapter; and

(2) Be given in a manner prescribed in paragraph (c) of this section.

(c) *Method of giving notice.* (1) In the case of a present employee, former employee, or beneficiary who is an interested party, the notice may be provided by any method reasonably calculated to ensure that each interested party is notified of the application for a determination. If an interested party who is a present employee is in a unit of employees covered by a collective-bargaining agreement between employee representatives and one or more employers, notice shall also be given to the collective-bargaining representative of such interested party by any method that satisfies this paragraph. Whether the notice is provided in a manner that satisfies the requirements of this paragraph is determined on the basis of all the relevant facts and circumstances. Because the facts and circumstances differ depending on the interested party, it may be necessary to use more than one method of delivery in order to ensure timely and adequate notice to all interested parties.

(2) If the notice to interested parties is delivered using an electronic medium under a system that satisfies the requirements of § 1.402(f)-1 Q&A–5, the notice is deemed to be provided in a manner that satisfies the requirements of paragraph (c)(1).

(d) *Examples.* The principles of this section are illustrated by the following examples:

Example 1. (i) Employer A is amending Plan C and applying for a determination letter. Plan C is not maintained pursuant to one or more collective bargaining agreements and is not being terminated. As part of the determination letter application process, Employer A provides the notice required under this section to interested parties. For present employees, Employer A provides the notice by posting the notice at those locations within the principal places of employment of the interested parties which are customarily used for employer notices to employees with regard to employment and employee benefit matters.

(ii) In this *Example 1,* Employer A satisfies the notice to interested parties requirement described in this section.

Example 2. (i) Employer B is amending Plan D and applying for a determination letter. As part of the determination letter application process, Employer B provides the notice required under this section to interested parties.

(ii) Employer B has multiple worksites. Employer B's employees located at worksites 1 through 4 have reasonable access to computers at their workplace. However, Employer B's employees located at worksite 5 do not have access to computers.

(iii) For present employees with reasonable access to computers (worksites 1 through 4), Employer B provides the notice by posting the notice on Employer B's web site (Internet or intranet). Employees at worksites 1 through 4 customarily receive employer notification with regard to employment and employee benefit matters from the Employer B's web site. For present employees without access to computers (worksite 5), Employer B provides the notice by posting the notice at worksite 5 in a location that is customarily used for employer notices to employees with regard to employment and employee benefit matters.

(iv) Employer B also sends the notice by e-mail to each collective-bargaining representative of interested parties who are present employees of Employer B covered by a collective-bargaining agreement between employee representatives and Employer B, using the e-mail address previously provided to Employer B by such collective-bargaining representative.

(v) In this *Example 2,* Employer B satisfies the notice to interested parties requirement described in this section.

Example 3. (i) Employer C is terminating Plan E and applying for a determination letter as to whether the plan termination affects the continuing qualification of Plan E. As part of the determination letter application process, Employer C provides the notice required under this section to interested parties.

(ii) All of Employer C's employees have reasonable access to computers. Each employee has an e-mail address where he or she can receive messages from Employer C. Employees of Employer C customarily receive employer notices regarding employment and employee benefit matters by e-mail.

(iii) For present employees, Employer C provides the notice by sending the notice by e-mail.

(iv) Employer C also sends the notice by e-mail to each collective-bargaining representative of interested parties who are present employees of Employer C covered by a collective-bargaining agreement between employee representatives and Employer C, using the e-mail address previously provided to Employer C by such collective-bargaining representative.

(v) In addition, Employer C sends the notice by e-mail to each interested party who is a former employee or beneficiary, using the e-mail address previously provided to Employer C by such interested party. For any former employee or beneficiary who did not provide an e-mail address, Employer C sends the notice by regular mail to the last known address of such former employee or beneficiary.

(vi) In this *Example 3,* Employer C satisfies the notice to interested parties requirement described in this section.

(e) *Effective date.* (1) The provisions of this section shall apply to applications referred to in § 1.7476–1(a) made on or after January 1, 2003.

(2) For applications made on or after June 21, 1976 and before January 1, 2003, § 1.7476–2 (as it appeared in the April 1, 2002 edition of 26 CFR part 1) applies.

PART 601—STATEMENT OF PROCEDURAL RULES

Par. 4. The authority citation for part 601 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. Section 601.201 is amended as follows:

1. In paragraph (o)(3)(xv), the first two sentences are removed and a new sentence is added in their place.
2. In paragraph (o)(3)(xvi), the introductory text is revised.
3. Paragraph (o)(3)(xvii) is revised.
4. In paragraph (o)(3)(xxi), the second sentence is revised.

The revisions and addition read as follows:

§ 601.201 Rulings and determination letters.

* * * * *

(o) * * *

(3) * * *

(xv) When the notice referred to in paragraph (o)(3)(xiv) of this section is given in the manner set forth in § 1.7476–2(c) of this chapter, such notice must be given not less than 10 days nor more than 24 days prior to the date the application for a determination is made. * * *

(xvi) The notice referred to in paragraph (o)(3)(xiv) of this section shall be given in the manner prescribed in § 1.7476–2 of this chapter and shall contain the following information:

* * * * *

(xvii) The procedure referred to in paragraph (o)(3)(xvi)(i) of this section whereby the additional informational material required by paragraphs (o)(3)(xviii), (xix), and (xx) of this section will (to the extent not included in this notice) be made available to interested parties, may consist of making such material available for inspection and copying by interested parties at a place or places reasonably accessible to such parties, or supplying such material by using a method of delivery or a combination thereof that is reasonably calculated to ensure that all interested parties will have access to the materials. The procedure referred to in paragraph (o)(3)(xvi)(i) of this section must be immediately available to all interested parties and must be designed to supply them with such additional informational material in time for them to pursue their rights within the time period prescribed, and must be available until the earlier of the filing of a pleading commencing a declaratory judgment action under section 7476 with respect to the qualification of the plan or the ninety-second day after the day the notice of final determination is mailed to the applicant.

* * * * *

(xxi) * * * The notice to interested parties required by paragraph (o)(3)(xiv) of this section shall be deemed given when the notice is posted or sent to the person in the manner prescribed in § 1.7476–2 of this chapter. * * *

* * * * *

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

Approved: July 10, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 02–18020 Filed 7–18–02; 8:45 am]

BILLING CODE 4830–01–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 106]

RIN 3090–AH64

Federal Travel Regulation; Maximum Per Diem Rates

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: To improve the ability of the per diem rates to meet the lodging demands of Federal travelers to high cost travel locations, the General Services Administration (GSA) has integrated the contracting mechanism of the new Federal Premier Lodging Program (FPLP) into the per diem rate-setting process. An analysis of FPLP contracting actions and the lodging rate survey data reveal that the maximum per diem rate for the State of Florida, city of Jacksonville/Mayport including Duval County and Mayport Naval Station, the State of Georgia, city of Savannah including Chatham County, and the State of South Carolina, city of Charleston/Berkeley County including Charleston and Berkeley Counties, should be increased; and the maximum per diem rate for the State of Alabama, city of Huntsville including Madison County, and the State of Mississippi, city of Biloxi/Gulfport including Harrison County, should be decreased to provide for the reimbursement of Federal employees' lodging expenses covered by the per diem. This final rule increases or decreases the maximum lodging amounts in the prescribed areas.

EFFECTIVE DATE: July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Joddy P. Garner, Office of Governmentwide Policy, Travel Management Policy, at 202–501–4857.

SUPPLEMENTARY INFORMATION:

A. Background

In the past, properties in high cost travel areas have been under no obligation to provide lodging to Federal travelers at the prescribed per diem rate. Thus, GSA established the FPLP to contract directly with properties in high cost travel markets to make available a set number of rooms to Federal travelers at contract rates. FPLP contract results along with the lodging survey data are integrated together to determine reasonable per diem rates that more accurately reflect lodging costs in these areas. In addition, the FPLP will enhance the Government's ability to better meet its overall room night demand, and allow travelers to find lodging close to where they need to conduct business. After an analysis of this additional data, the maximum lodging amounts are being changed in Huntsville, Alabama; Savannah, Georgia; Charleston/Berkeley County, South Carolina; Jacksonville/Mayport, Florida; and Biloxi/Gulfport, Mississippi.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose record keeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects 41 CFR Chapter 301

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, 41 CFR chapter 301 is amended as follows:

CHAPTER 301—TEMPORARY DUTY (TDY) TRAVEL ALLOWANCES

1. In Chapter 301, amend the table in Appendix A as follows:

a. At the entry for Huntsville, Alabama, including Madison County, the column entitled ''Maximum lodging amount'' is revised to read ''67'' and the column entitled ''Maximum per diem rate'' is revised to read ''105''.

b. At the entry for Jacksonville/Mayport, Florida, including Duval County and Mayport Naval Station, the column entitled ''Maximum lodging amount'' is revised to read ''81'' and the column entitled ''Maximum per diem rate'' is revised to read ''115''.

c. At the entry for Savannah, Georgia, including Chatham County, the column entitled ''Maximum lodging amount'' is revised to read ''89'' and the column entitled ''Maximum per diem rate'' is revised to read ''127''.

d. At the entry for Biloxi/Gulfport, Mississippi, including Harrison County, the column entitled ''Maximum lodging amount'' is revised to read ''61'' and the column entitled ''Maximum per diem rate'' is revised to read ''99''.

e. At the entry for Charleston/Berkeley County, South Carolina, including Charleston and Berkeley Counties, the column entitled ''Maximum lodging amount'' is revised to read ''106'' and the column entitled ''Maximum per diem rate'' is revised to read ''148''.

The revised pages containing the amendments to the table set forth above read as follows:

Appendix A to Chapter 301—Prescribed Maximum Per Diem Rates for CONUS

* * * * *

BILLING CODE 6820–14–P

Per diem locality:		Maximum lodging amount **(room rate only—no taxes)** (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city[1]	County and/or other defined location [2], [3]					
CONUS, Standard rate:		55		30		85
(Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation subsistence allowances. See parts 302-2, 302-4, and 302-5 of this subtitle.)						
ALABAMA						
Birmingham	Jefferson	59		38		97
Decatur	Morgan	69		30		99
Gulf Shores	Baldwin					
(May 15-September 4)		101		34		135
(September 5-May 14)		64		34		98
Huntsville	Madison	67		38		105
Montgomery	Montgomery	57		38		95
ARIZONA						
Casa Grande	Pinal					
(January 1-April 30)		80		34		114
(May 1-December 31)		65		34		99
Chinle	Apache					
(May 1-October 31)		98		34		132
(November 1-April 30)		55		34		89
Flagstaff	All points in Coconino County not covered under Grand Canyon per diem area					
(May 1-October 31)		67		34		101
(November 1-April 30)		55		34		89
Grand Canyon	All points in the Grand Canyon National Park and Kaibab National Forest within Coconino County					
(May 1-October 21)		106		42		148
(October 22 –April 30)		94		42		136
Kayenta	Navajo					
(April 15-October 15)		98		30		128
(October 16-April 14)		65		30		95
Phoenix/Scottsdale	Maricopa					
(January 1-April 15)		107		42		149
(April 16-May 31)		79		42		121
(June 1-August 31)		59		42		101
(September 1-December 31)		90		42		132
Tucson	Pima County; Davis-Monthan AFB					
(January 1-April 15)		85		38		123
(April 16-December 31)		58		38		96
Yuma	Yuma	68		34		102
ARKANSAS						
Hot Springs	Garland	60		30		90

Per diem locality:		Maximum lodging amount **(room rate only—no taxes)** (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city[1]	County and/or other defined location [2], [3]					
(May 1-September 30)		115		38		153
(October 1-April 30)		59		38		97
Jacksonville/Mayport	Duval; Mayport Naval Station	81		34		115
Key West	Monroe					
(January 1-April 30)		180		46		226
(May 1-December 31)		109		46		155
Kissimmee	Osceola					
(February 1-April 30)		77		34		111
(May 1-January 31)		64		34		98
Lakeland	Polk	71		34		105
Leesburg	Lake					
(November 1-April 15)		68		30		98
(April 16-October 31)		55		30		85
Miami	Dade					
(January 1-April 15)		89		42		131
(April 16-December 31)		75		42		117
Naples	Collier					
(December 16-April 15)		109		38		147
(April 16-December 15)		69		38		107
Ocala	Marion	59		30		89
Orlando	Orange	95		42		137
Palm Beach (also the cities of Boca Raton, Delray Beach , Jupiter, Palm Beach Gardens, Palm Beach Shores, Singer Island and West Palm Beach)	Palm Beach					
(January 1-April 30)		129		46		175
(May 1-December 31)		70		46		116
Panama City	Bay	74		38		112
Pensacola	Escambia	60		30		90
Punta Gorda	Charlotte					
(December 15-April 15)		75		38		113
(April 16-December 14)		55		38		93
Sarasota	Sarasota					
(January 1-April 30)		80		38		118
(May 1-December 31)		70		38		108
Sebring	Highlands	64		30		94
St. Augustine	St. Johns	65		38		103
Stuart	Martin	57		38		95
Tallahassee	Leon	65		34		99
Tampa/St. Petersburg	Pinellas and Hillsborough					
(January 1-April 30)		105		38		143
(May 1-December 31)		89		38		127
Vero Beach	Indian River					
(December 15-April 15)		99		38		137
(April 16-December 14))		59		38		97
GEORGIA						
Albany	Dougherty	57		34		91
Athens	Clarke	69		34		103

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Atlanta	Fulton and Gwinnett	93		38		131
Clayton County	Clayton	64		30		94
Cobb County	Cobb	78		34		112
Columbus	Muscogee	63		34		97
Conyers	Rockdale	69		34		103
DeKalb County	DeKalb	78		34		112
Savannah	Chatham	89		38		127
IDAHO						
Boise	Ada	61		38		99
Coeur d'Alene	Kootenai	56		34		90
Ketchum	Blaine (except Sun Valley)					
(May 1-November 30)		84		42		126
(December 1-April 30)		74		42		116
McCall	Valley	62		38		100
Sun Valley	City limits of Sun Valley (see Blaine County)	149		42		191
ILLINOIS						
Aurora	Kane (except Elgin)	66		30		96
Chicago	Cook and Lake	155		46		201
Du Page County	Du Page	89		38		127
Elgin	City limits of Elgin (see Kane County)	60		30		90
Rockford	Winnebago	60		30		90
INDIANA						
Carmel	Hamilton	65		38		103
Ft. Wayne	Allen	58		30		88
Indianapolis	Marion County; Fort Benjamin Harrison	70		42		112
Lafayette	Tippecanoe	59		30		89
Michigan City	La Porte	65		34		99
Nashville	Brown					
(April 1-November 15)		75		38		113
(November 16-March 31)		59		38		97
South Bend	St. Joseph	61		34		95
Valparaiso/Burlington Beach	Porter	89		34		123
IOWA						
Cedar Rapids	Linn	60		34		94
Des Moines	Polk	67		34		101
KANSAS						
Kansas City/Overland Park	Wyandotte and Johnson	85		38		123
Wichita	Sedgwick	59		38		97
KENTUCKY						
Covington	Kenton	80		38		118
Lexington	Fayette	65		30		95
Louisville	Jefferson	69		38		107
LOUISIANA						
Baton Rouge	East Baton Rouge Parish	78		38		116

Per diem locality:		Maximum lodging amount **(room rate only—no taxes)** (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city[1]	County and/or other defined location [2, 3]					
Sault Ste Marie	Chippewa					
(May 15-October 15)		63		34		97
(October 16-May 14)		55		34		89
South Haven	Van Buren	76		34		110
Traverse City	Grand Traverse	125		42		167
Warren	Macomb	79		34		113
MINNESOTA						
Anoka County	Anoka	65		34		99
Dakota County	Dakota	80		34		114
Duluth	St. Louis					
(June 1-October 31)		85		42		127
(November 1-May 31)		56		42		98
Minneapolis/St. Paul	Hennepin County and Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), and Ramsey County	95		46		141
Rochester	Olmsted	73		34		107
MISSISSIPPI						
Bay St. Louis	Hancock					
(April 1-October 31)		69		38		107
(November 1-March 31)		55		38		93
Biloxi/Gulfport	Harrison	61		38		99
Robinsonville	Tunica	59		34		93
MISSOURI						
Branson	Taney					
(April 1-December 31)		62		34		96
(January 1-March 31)		55		34		89
Hannibal	Marion	57		30		87
Jefferson City	Cole	60		30		90
Kansas City	Jackson, Clay and Kansas City International Airport	85		42		127
Osage Beach	Camden	89		30		119
Platte	Platte (except Kansas City International Airport)	61		34		95
Springfield	Greene	63		30		93
St. Louis	St. Louis and St. Charles	90		46		136
MONTANA						
Big Sky	Gallatin (except West Yellowstone)	125		46		171
Polson/Kalispell	Lake and Flathead					
(June 1-September 15)		64		30		94
(September 16-May 31)		55		30		85
West Yellowstone	City limits of West Yellowstone (see Gallatin County)					
(June 1-September 30)		92		34		126
(October 1-May 31)		55		34		89

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount **(room rate only—no taxes)** (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
(April 1-December 31)						
(January 1-March 31)		79		42		121
North Kingstown	Washington	89		30		119
Providence	Providence	89		42		131
SOUTH CAROLINA						
Aiken	Aiken	65		30		95
Charleston/Berkeley County	Charleston and Berkeley	106		42		148
Columbia	Richland	65		30		95
Greenville	Greenville	65		38		103
Hilton Head	Beaufort					
(March 15-September 30)		95		42		137
(October 1-March 14)		75		42		117
Myrtle Beach	Horry County; Myrtle Beach AFB					
(March 1-November 30)		99		42		141
(December 1-February 28)		59		42		101
SOUTH DAKOTA						
Custer	Custer					
(June 15-August 19)		70		30		100
(August 20-June 14)		55		30		85
Hot Springs	Fall River					
(June 15-October 15)		108		30		138
(October 16-June 14)		79		30		109
Rapid City	Pennington					
(May 15-September 30)		99		34		133
(October 1-May 14)		55		34		89
Sturgis	Meade					
(June 15-August 15)		79		30		109
(August 16-June 14)		55		30		85
TENNESSEE						
Alcoa/Townsend	Blount	63		34		97
Gatlinburg	Sevier					
(May 1-October 31)		78		38		116
(November 1-April 30)		70		38		108
Memphis	Shelby	75		38		113
Murfreesboro	Rutherford	57		30		87
Nashville	Davidson	82		42		124
Williamson County	Willamson	60		30		90
TEXAS						
Amarillo	Potter	57		30		87
Arlington	Tarrant	77		34		111
Austin	Travis	80		38		118
Bryan	Brazos (except College Station)	60		30		90
College Station	City limits of College Station (see Brazos County)	69		34		103
Corpus Christi	Nueces	59		38		97
Dallas	Dallas	89		46		135
El Paso	El Paso	78		38		116

Dated: July 11, 2002.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 02–18235 Filed 7–18–02; 8:45 am]

BILLING CODE 6820–14–C

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[USCG–2002–12840]

RIN 2115–AG46

Basic Rates and Charges on Lake Erie and the Navigable Waters From Southeast Shoal to Port Huron, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; request for comments.

SUMMARY: This temporary final rule amends the rates charged for Great Lakes pilotage on the Designated Waters of Area 5 in District Two and restores them to those effective before August 13, 2001. The Lake Pilots Association, representing pilots in District Two, challenged the ratemaking effective on and after that date, and sued. The Coast Guard, while not agreeing with the allegations in the complaint, did learn during the course of litigation that it had inadvertently accounted for hours of delay and detention in District Two differently from how it was done in Districts One and Three. The Coast Guard is currently working on an updated ratemaking that will, among other things, correct this error. In the interim, it is considered in the best interest of the public to temporarily return the rates (in District Two, Area 5) to those effective prior to August 13, 2001. This temporary final rule will not be retroactive and future rates will not be adjusted as a result of this action.

DATES: This temporary final rule is effective from July 19, 2002, to July 21, 2003. Comments and related material must reach the Docket Management Facility on or before September 17, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket [USCG–2002–12840], please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this temporary rule. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call Paul Wasserman, Office of Maritime and International Law, Commandant (G–LMI), U.S. Coast Guard, telephone 202–267–0093. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this temporary rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this temporary rule [USCG–2002–12840], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary final rule in view of them.

Public Meeting

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

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this temporary final rule, and it takes effect immediately. Delay in implementing this rule would be contrary to the public interest. In 2001, the Coast Guard amended existing ratemaking requirements for Great Lakes Pilotage and inadvertently accounted for hours of delay and detention in District Two in a manner different from Districts One and Three. Due to the impact on and disparate treatment among the districts, it is necessary to immediately correct this situation. This rule simply, and temporarily, restores the rates that were effective before the amendment, while we further evaluate the situation. Therefore, the Coast Guard finds under 5 U.S.C. 553(b)(B) and (d)(3), respectively, that neither notice-and-comment rulemaking nor 30 days' notice of effective date is required.

Background and Purpose

On July 12, 2001, the Coast Guard published a final rule in the **Federal Register** [66 FR 36484] amending the ratemaking for the Great Lakes Pilotage. The new rates became effective August 13, 2001. They were challenged in court by the Lake Pilots Association, representing the pilots in District Two, Lake Erie. While preparing our defense, we discovered that we had inadvertently accounted for hours of delay and detention in District Two differently from how we had in Districts One and Three. We also noticed minor errors in computing the rates in District Two. We are undertaking a study to address, among other things, the issue of how we should count hours of delay and detention when computing bridge-hours in all three Districts.

Discussion of Temporary Final Rule

While not agreeing with the allegations contained in the complaint of the Lake Pilots Association, for the reasons stated, the Coast Guard agreed to the relief sought in the lawsuit and

is temporarily restoring the rates that were effective before August 13, 2001. The Coast Guard believes that this measure is in the best interest of the public. This measure will mitigate the effects, if any, of the Coast Guard's disparate treatment of the pilots in District Two, when accounting for hours of delay and detention. It should be noted, however, that this temporary final rule will not be retroactive and future rates will not be adjusted as a result of this action. Simultaneously, it is anticipated that this measure will resolve the lawsuit initiated by those pilots and so enable the Coast Guard to concentrate its efforts on addressing the system-wide concerns raised by the public with the input of all parties affected by rates for pilotage. During the effective period of this temporary final rule, we will devote our energy to promulgating a new ratemaking.

Regulatory Evaluation

This temporary final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)].

Because the rates are being restored to already-approved rates, the Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Assessment under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. However, a detailed Regulatory Assessment is available in the docket from the rulemaking that established those previous rates [Saint Lawrence Seaway Development Corporation (RIN 2135–AA08)].

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we have considered whether this temporary final rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. For the reasons stated under *Regulatory Information* and because this rule does not affect small entities, it was not preceded by an NPRM and therefore is exempt from the requirements of the Regulatory Flexibility Act. Although it is exempt, we have reviewed it for potential economic impact on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule will economically affect it.

Assistance for Small Entities

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

Collection of Information

This temporary final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** [66 FR 36361 (July 11, 2001)] requesting comments on how to best carry out the Order. We invite your comments on how this rule might affect tribal governments, even if the effect may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this temporary final rule and concluded that under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This rule amends the rates charged for Great Lakes pilotage, restoring them to the rates previously in effect. It is procedural in nature and therefore is categorically excluded. A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 401

Administrative practice and procedure; Great Lakes; Navigation (water); Penalties; Reporting and recordkeeping requirements; Seamen.

For reasons discussed in the preamble, the Coast Guard temporarily amends 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46 (mmm); 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

2. In § 401.407, suspend paragraph (b) and temporarily add paragraph (c) to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(c) *Area 5 (Designated Waters):*

Any point on or in:	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit river	Detroit pilot boat	St. Clair river
Toledo or any port on Lake Erie west of Southeast Shoal	$988	$583	$1,282	$988	N/A
Port Huron Change Point	[1] 1,720	[1] 1,993	1,293	1,005	$715
St. Clair River	[1] 1,720	N/A	1,293	1,293	583
Detroit or Windsor Or the Detroit River	988	1,282	583	N/A	1,293
Detroit Pilot Boat	715	988	N/A	N/A	1,293

[1] When pilots are not changed at the Detroit pilot boat.

Dated: July 12, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–18345 Filed 7–17–02; 10:29 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–857, MM Docket No. 01–2, RM–10036]

Television Broadcast Service; New Iberia, LA; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of April 11, 2001 (66 FR 18734), a document changing the TV Table of Allotments to reflect the substitution of TV channel 53 for TV channel 36-at New Iberia, Louisiana. However, TV channel 53 was inadvertently published as 56-. This document corrects that error.

DATES: Effective July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION:

Background

The FCC published a document in the **Federal Register** of April 11, 2001, (66 FR 18734) removing TV channel 36- and adding TV channel 53 at New Iberia, Louisiana. TV channel 56 was inadvertently published in lieu of TV channel 53 at New Iberia, Louisiana. This correction removes TV channel 56- and correctly adds TV channel 53-in § 73.606(b) of the Commission's Rules.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and need to be clarified.

List of Subjects in 47 CFR Part 73

Television 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 and 336.

§ 73.606 [Corrected]

2. Section 73.606(b), the Table of Television Allotments under Louisiana, is amended by removing TV channel 56- and adding TV channel 53-at New Iberia.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–18179 Filed 7–18–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[Docket No. OST–1999–6189]

RIN 9991–AA27

Organization and Delegation of Powers and Duties; Secretarial Succession

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to alter the order of Secretarial succession for the Department in order to be consistent with the Vacancies Act.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Laura Aguilar, Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law, Department of Transportation, 400 Seventh Street SW., Room 10102, Washington, DC 20590; Telephone: (202) 366–0365.

SUPPLEMENTARY INFORMATION: In 49 CFR 1.26, the order of succession to act as Secretary of Transportation is set forth as follows: The Deputy Secretary,

General Counsel, Assistant Secretary for Transportation Policy, Assistant Secretary for Aviation and International Affairs, Assistant Secretary for Governmental Affairs, Assistant Secretary for Budget and Programs, Associate Deputy Secretary, Federal Aviation Administrator, and Assistant Secretary for Administration, in that order.

The Federal Vacancies Reform Act of 1998 (Vacancies Act) specifies who may serve in an acting capacity for a vacant position that is subject to a nomination by the President by and with the consent of the Senate (a ''PAS'' position). The Vacancies Act is the exclusive means for temporarily authorizing an acting official to perform the functions and duties of a PAS position unless otherwise authorized by statute. The Administration interprets the Vacancies Act to mean that if there is no statutory provision that enables the head of an agency to establish an order of succession, only the President of the United States may do so.

Section 102 of title 49, United States Code, authorizes the Secretary to prescribe the order of succession for the Assistant Secretaries and the General Counsel. The Department's order of Secretarial succession is not consistent with the Vacancies Act since it also includes the Associate Deputy Secretary and the Federal Aviation Administrator. Therefore, we are amending the Secretarial Order of Succession to make it consistent with 49 U.S.C. 102 and the Vacancies Act.

Section 102 of title 49, United States Code, authorizes the Secretary to prescribe the order of succession for the Assistant Secretaries and the General Counsel. Under the Vacancies Act, only the President is authorized to designate officers in the line of Secretarial succession that are not specified in the enabling statute. In other words, only the President may designate officers beyond the General Counsel and the Assistant Secretaries. In a Memorandum for the Secretary of Transportation entitled ''Designation of Officers of the Department of Transportation,'' dated March 19, 2002, the President supplemented the Secretarial succession to include: the Associate Deputy Secretary of Transportation; the Under Secretary of Transportation for Security; the Federal Aviation Administrator; the Federal Aviation Administration Regional Administrator, Southwest Region; and the Federal Aviation Administration Regional Administrator, Great Lakes Region, in that order. This final rule codifies the President's Memorandum.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b)(3)(A), and it may be made effective in less than 30 days after publication in the **Federal Register** under 5 U.S.C. 553(d)(2) as a change in internal policy.

List of Subjects in 49 CFR Part 1

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

Issued this 10th day of July, 2002, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597.

2. In § 1.26, paragraphs (a)(3) through (a)(12) are revised to read as follows:

§ 1.26 Secretarial succession.

(a) * * *

(3) Assistant Secretary for Budget and Programs.

(4) Assistant Secretary for Governmental Affairs.

(5) Assistant Secretary for Transportation Policy.

(6) Assistant Secretary for Aviation and International Affairs.

(7) Assistant Secretary for Administration.

(8) Associate Deputy Secretary.

(9) Under Secretary of Transportation for Security.

(10) Federal Aviation Administrator.

(11) Federal Aviation Administration Regional Administrator, Southwest Region.

(12) Federal Aviation Administration Regional Administrator, Great Lakes Region.

* * * * *

[FR Doc. 02–18053 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622, 635, 640, and 654

[Docket No. 010410086–2165–02; I.D. 020801A]

RIN 0648–AN83

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to the Fishery Management Plans of the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the Generic Amendment Addressing the Establishment of the Tortugas Marine Reserves in the Fishery Management Plans of the Gulf of Mexico (Tortugas Amendment), as prepared by the Gulf of Mexico Fishery Management Council (Gulf of Mexico Council). This action will provide enhanced protections for existing marine reserves in the vicinity of the Dry Tortugas, Florida, and is taken under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This final rule complements regulations previously issued by NOAA under the authority of the National Marine Sanctuary Act by better informing the public of applicable restrictions and providing enhanced enforcement authority and stricter penalties for violations. Consistent with NOAA's existing regulations, these regulations prohibit fishing for any species and anchoring by fishing vessels within the reserves. The intended effect is to inform the public of these restrictions and to further protect and conserve important marine resources.

DATES: This final rule is effective August 19, 2002.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, phone: 727–570–5305; fax: 727–570–5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico fisheries for coastal migratory pelagics, coral and coral reefs, red drum, reef fish, shrimp, spiny lobster, and stone crab are managed under fishery management plans (FMPs) prepared by the Gulf of Mexico Council and approved and implemented by NMFS. These FMPs were prepared solely by the Gulf of Mexico Council, with the exception of the FMPs for coastal

migratory pelagics and spiny lobster that were prepared jointly by the Gulf of Mexico Council and the South Atlantic Fishery Management Council (South Atlantic Council).

The Tortugas Amendment amends the following FMPs: Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico; Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico; Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico; Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico; Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico; Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; and Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic. All of these FMPs, except the FMPs for spiny lobster and stone crab, are implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. The FMP for spiny lobster is implemented by regulations at 50 CFR part 640; the FMP for stone crab is implemented by regulations at 50 CFR part 654.

On March 7, 2001, NMFS published a notice of availability of the Tortugas Amendment and requested comments on the amendment (66 FR 13692). On June 6, 2001, NMFS approved those Tortugas Amendment measures that amend the FMPs for coral and coral reefs, red drum, stone crab, shrimp, and reef fish. On July 19, 2001, NMFS announced the availability of the Tortugas Amendment management measures that would amend the FMPs for coastal migratory pelagic resources and for spiny lobster and requested comments on those measures (66 FR 37635). NMFS approved those measures on October 16, 2001. A proposed rule to implement all measures included in the Tortugas Amendment, with a request for comments through March 25, 2002, was published on February 7, 2002 (67 FR 5780). The background and rationale for the measures in the Tortugas Amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here.

Comments and Responses

NMFS received three general comments in support of the Tortugas Amendment during the public comment period on the amendment. NMFS has approved the amendment. One comment supporting the specific aspects of the proposed rule was received during the comment period on the proposed rule.

Comment: An environmental organization supported all the measures in the proposed rule, including a prohibition on fishing for highly migratory species. They stated that they would vigorously oppose anything less than the protections currently included in the proposed rule. They commented that the proposed measures were crucial to help maintain and rebuild fish populations; protect corals and maintain a functioning ecological whole system; and to provide effective enforcement of the current no-take regulations in that area.

Response: NMFS notes that fishing for any species, including highly migratory species, and anchoring by fishing vessels is prohibited in the Tortugas marine reserves.

Classification

The Administrator, Southeast Region, NMFS determined that the Tortugas Amendment is necessary for the conservation and management of fisheries resources in the Gulf of Mexico and that it is consistent with the national standards of the Magnuson-Stevens Act and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared a final supplemental environmental impact statement (FSEIS) for the Tortugas Amendment that was filed with the Environmental Protection Agency for public review and comment. A notice of its availability for public comment for 30 days was published in the **Federal Register** on March 16, 2001 (66 FR 15241). According to the FSEIS, the elimination of consumptive uses within the marine reserves will protect essential fish habitat from fishery-related impacts and eliminate fishing mortality. Establishment of the marine reserves may result in many benefits to the ecosystem, including increased size and abundance of marine species. This may potentially improve reproductive success which could enhance recruitment to other areas of the Gulf of Mexico and the Florida Keys. The FSEIS states that although commercial and recreational fishermen could experience increased costs because of further restrictions on their activities within the marine reserves, they and non-consumptive users are expected to realize long-term benefits resulting from the maintenance of healthy and diverse marine ecosystems. It is noted that following NMFS' publication in the **Federal Register** of the notice of availability of the Tortugas Amendment for public comment, the FKNMS regulations became effective, thereby prohibiting all commercial and recreational fishing in the marine reserve areas. Accordingly, this final rule should not impact commercial and recreational fishermen in terms of a new prohibition on fishing and anchoring in the reserves.

List of Subjects

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

50 CFR Part 654

Fisheries, Fishing.

Dated: July 15, 2002.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR parts 622, 635, 640, and 654 are amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.34, paragraph (d) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(d) *Tortugas marine reserves.* The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(1) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines

connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(2) *Tortugas South*. The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

* * * * *

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

4. In § 635.21, paragraph (a)(4) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(a) * * *

(4) No person may fish for, catch, possess or retain any Atlantic highly migratory species or anchor a fishing vessel, issued a permit or required to be permitted under this part, in the areas designated at § 622.34(d) of this chapter.

* * * * *

5. In § 635.71, paragraph (a)(30) is revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(30) Deploy or fish with any fishing gear from a vessel or anchor a fishing vessel, permitted or required to be permitted under this part, in any closed area as specified at § 635.21.

* * * * *

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

6. The authority citation for part 640 continues to read as follows:

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

7. In § 640.7, paragraph (v) is added to read as follows:

§ 640.7 Prohibitions.

* * * * *

(v) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 640.26.

8. Section 640.26 is added to subpart B to read as follows:

§ 640.26 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) *EEZ portion of Tortugas North*. The area is bounded by rhumb lines connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(b) *Tortugas South*. The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

PART 654--STONE CRAB FISHERY OF THE GULF OF MEXICO

9. The authority citation for part 654 continues to read as follows:

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

10. In § 654.7, paragraph (o) is added to read as follows:

§ 654.7 Prohibitions.

* * * * *

(o) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 654.28.

11. Section 654.28 is added to subpart B to read as follows:

§ 654.28 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) *EEZ portion of Tortugas North*. The area is bounded by rhumb lines connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(b) *Tortugas South*. The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″

Point	North lat.	West long.
A	24°33′00″	83°09′00″

[FR Doc. 02–18308 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 071202D]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

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

ACTION: Adjustment of General category daily retention limit.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily catch limit should be adjusted in order to allow for maximum utilization of the proposed 2002 General category June through August subquota. Therefore, NMFS increases the daily retention limit from one to two large medium (73 to less than 81 inches (185 to less than 206 cm)) or giant (81 inches or greater (206 cm or greater)) BFT for the remainder of the June through August time-period.

DATES: Effective July 18 through August 31, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. BFT fishing category quotas and General category effort controls (including time-period subquotas and Restricted-Fishing Days (RFDs)) are specified annually under §§ 635.23(a) and 635.27(a). The 2002 BFT quotas and General category effort controls were proposed June 25, 2002 (67 FR 43266, June 27, 2002).

Adjustment of Daily Retention Limit

Under § 635.23 (a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that an increase of the daily retention limit is appropriate and necessary to allow full use of the June through August subquota while ensuring an August fishery. Therefore, NMFS adjusts the daily retention limit for the remainder of the June through August subquota time-period to two large medium or giant BFT per vessel. This adjustment does not affect the proposed RFDs for August (August 10, 11, and 12), on which the daily retention in the General category would be zero, and on which General category vessels would not be allowed to fish for BFT.

The intent of this adjustment is to allow for maximum utilization of the June through August subquota (specified under §635.27(a)) by General category participants in order to help achieve optimum yield in the General category fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the Fishery Management Plan for Atlantic tunas, swordfish, and sharks.

While catch rates have been low so far this season, NMFS recognizes that they may increase. In addition, due to the temporal and geographical nature of the fishery, certain gear types and areas are more productive at various times during the fishery. In order to ensure that the June through August subquota is not filled prematurely and to ensure equitable fishing opportunities in all areas and for all gear types, NMFS has not waived the proposed RFDs in August, which correspond to market closures in Japan, and could promote better ex-vessel prices.

Classification

This action is taken under § 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 15, 2002.

Virginia M. Fay,

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

[FR Doc. 02–18190 Filed 7–15–02; 4:10 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020402077–01; I.D. 071202E]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shore-based Fishery for Pacific Whiting

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 2002 primary season for the shore-based fishery for Pacific whiting (whiting) at 0800 local time (l.t.) July 17, 2002, because the allocation is projected to be reached. This action is intended to keep the harvest of whiting at the 2002 allocation levels.

DATES: Effective from 0800 l.t. July 17, 2002, until the effective date of the 2003 specification and management measures for the Pacific Coast groundfish fishery which will be published in the **Federal Register**, unless modified, superseded or rescinded. Comments will be accepted through August 5, 2002.

ADDRESSES: Submit comments to D. Robert Lohn, Acting Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On April 15, 2002 (67 FR 18117), the levels of allowable biological catch, the optimum yield (OY) and the commercial OY (the OY minus the tribal allocation) for U.S. harvests of whiting were announced in the **Federal Register**. For 2002 the

whiting OY is 129,600 mt (mt) and the commercial OY is 106,920 mt.

Regulations at 50 CFR 660.323(a)(4) divide the commercial OY into separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. The 2002 allocations, which are based on the 2002 commercial OY, are 36,353 mt (34 percent) for the catcher/processor sector, 25,661 (24 percent) for the mothership sector, and 44,906 mt (42 percent) for the shoreside sector.

When each sector's allocation is reached, the primary season for that sector is ended. The shore-based sector is composed of vessels that harvest whiting for delivery to land-based processors. The regulations at 50 CFR 660.323(a)(3)(i) describe the primary season for the shore-based sector as the period(s) when the large-scale target fishery is conducted (when trip limits under 50 CFR 660.323(b) are not in effect). Before and after the primary seasons, per-trip limits are in effect for whiting.

The best available information on July 15, 2002, indicates that 39,460 mt had been taken through July 13, 2002, and that the 44,906 mt shore-based allocation would be reached by 0800 l.t. July 17, 2002. This **Federal Register** document announces the date that the primary season for the shore-based sector ends, and that per-trip limits are reinstated. Per-trip limits are intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries. To minimize incidental catch of chinook salmon by vessels fishing shoreward of the 100 fm (183 m) contour in the Eureka area, at any time during a fishing trip, a limit of 10,000-lb (4,536 kg) of whiting is in effect year-round, except when landings of whiting are prohibited.

On July 5,2002 (67 FR 44778), NMFS announced fishery restrictions that eliminated the per-trip limits for whiting beginning September 1, 2002. Therefore, the 20,000-lb (9,072 kg) trip limit that was in place before the start of the primary season is reinstated from the end of the primary season to September 1, at which time further taking and retaining, possessing or landing of whiting will be prohibited, unless otherwise announced in the **Federal Register**.

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323(a)(4)(iii)(C), NMFS herein announces:

Effective 0800 l.t. July 17, 2002, until September 1, 2002, no more than 20,000 lb (9,072 kg) of whiting may be taken and retained, possessed or landed by a catcher vessel participating in the shore-based sector of the whiting fishery. On September 1, 2002, further taking and retaining, possessing or landing of whiting will be prohibited, unless otherwise announced in the **Federal Register**. If a vessel fishes shoreward of the 100–fm (183–m) contour in the Eureka area (43°–40°30′ N. lat.) at any time during a fishing trip, the 10,000–lb (4,536–kg) trip limit applies, as announced in the annual management measures at paragraph IV, B (3)(c)(ii), except when the whiting fishery is closed.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(C) and is exempt from review under Executive Order 12866.

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

Dated: July 15, 2002.

Virginia M. Fay

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

[FR Doc. 02–18262 Filed 7–16–02; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 071502C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the Gulf of Alaska (GOA). This is action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of pelagic shelf rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 2002, through 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 TAC of pelagic shelf rockfish for the West Yakutat District was established as 640 metric tons (mt) by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002 and 67 FR 34860, May 16, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 TAC for pelagic shelf rockfish in the West Yakutat District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 630 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA, also finds good cause

to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 16, 2002.

Virginia M. Fay,

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

[FR Doc. 02–18261 Filed 7–16–02; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 071502B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 2002, through 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 TAC of Pacific ocean perch for the Western Regulatory Area was established as 2,610 metric tons (mt) by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002, and 67 FR 34860, May 16, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 TAC for Pacific ocean perch in the Western Regulatory Area will be reached before the end of the fishing season or year. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,470 mt, and is setting aside the remaining 140 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA, also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by section 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 15, 2002.

Virginia M. Fay,

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

[FR Doc. 02–18263 Filed 7–16–02; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–2062–02; I.D. 121701A]

RIN 0648–AP69

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries off Alaska; Correction

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

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the correction to an emergency interim rule published July 10, 2002, by adding information that should have been included in the correction. The emergency interim rule, published January 8, 2002, implements Steller sea lion protection measures and 2002 harvest specifications for the Alaska groundfish fishery. The correction was needed to afford Atka mackerel fishery participants an additional opportunity to register for the 2002 B season harvest limit area (HLA) fishery in the Aleutian Islands subarea. Through an oversight, the correction to the emergency rule did not reference collection-of-information requirements subject to the Paperwork Reduction Act, which had been submitted under the January 8, 2002, emergency interim rule. Therefore, this document is being published to address this issue.

DATES: Effective July 10, 2002.

ADDRESSES: Send comments on collection-of-information requirements to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Durall and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Melanie Brown, NMFS, 907–586–7228 or e-mail at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: An emergency interim rule was published January 8, 2002 (67 FR 956), amended and corrected May 1, 2002 (67 FR 21600), extended May 16, 2002 (67 FR

3486), and corrected July 10, 2002 (67 FR 45672). The July 10, 2002, correction to the emergency interim rule implements a registration process for the 2002 B season HLA directed fishery for Atka mackerel and clarified the requirements for registration in the Atka mackerel HLA directed fishery for the B season starting September 1, 2002. However, its Classification section did not address the information requirement for the registration process.

Need for Correction

This document inadvertently omitted required PRA text and must be corrected by adding it.

Correction

Accordingly, the correction to the emergency rule on July 10, 2002, FR Doc. 02–17045 is further corrected as follows:

On page 45672, column 2, under Classification add the following text as the first paragraph of the Classification section:

Classification

The correction of an emergency interim rule published July 10, 2002 (67 FR 45671, FR Doc. 02–17045), contained a collection-of-information requirement subject to the PRA that has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0206. For the Federal Fisheries Permit registration, the estimated response time is 21 minutes. The response-time estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provisions of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 15, 2002.

Rebecca Lent,

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

[FR Doc. 02–18264 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 139
Friday, July 19, 2002

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

[No. LS–02–09]

Pork Promotion, Research, and Consumer Information Order: Rules and Regulations—Decrease in Assessment Rate and Decrease of Importer Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 (Act) and the Pork Promotion, Research, and Consumer Information Order (Order) thereunder, this proposed rule would decrease the current rate of assessment of 0.45 percent of the market value of porcine animals to 0.40 percent, and decrease the amount of assessment per pound due on imported pork and pork products (two- to four-hundredths of a cent per pound) to reflect the combined effect of the increase in the 2001 average price for domestic barrows and gilts (about 7 percent) and the proposed decrease in the assessment rate. The assessment decrease would decrease annual funding of the promotion, research, and consumer information program by an estimated $5 million to $6 million with an estimated $290,000 decrease in importer assessments. The assessment decrease reflects the National Pork Producers Delegate Body's (Delegate Body) desire to lessen the assessment burden on producers and make such funds available to pork producers and the industry. The adjustment in importer assessments also would bring the equivalent market value of live animals from which imported pork and pork products are derived in line with the market value of domestic porcine animals. A Harmonized Tariff Schedule (HTS) number for prepared or preserved pork also would be added to the regulations.

DATES: Written comments must be received by August 19, 2002.

ADDRESSES: Send a copy of your comments to Kenneth R. Payne, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251. Comments may also be submitted electronically to: *porkcomments@usda.gov* or by facsimile at 202/720–1125. All comments should reference the docket number LS–02–09, the date, and the page number of this issue of the **Federal Register**. Comments will be available for public inspection via the Internet at *http://www.ams.usda.gov/lsg/mpb/rp-pork.htm* or during regular business hours, 8:00 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988, the Regulatory Flexibility Act, and the Paperwork Reduction Act

The Office of Management and Budget has waived the review process required by Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposal is not intended to have a retroactive effect. The Act states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an order may file a petition with the Department of Agriculture (Department) stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with the law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Department would rule on the petition. The Act provides that the district court of the United States in the district in which a person resides or does business has jurisdiction to review the Department's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (5 United States Code (U.S.C.) 601 *et seq.*). The effect of the Order upon small entities initially was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898). It was determined at that time that the Order would not have a significant effect upon a substantial number of small entities. Many of the estimated 81,000 pork producers and 500 importers may be classified as small entities under the Small Business Administration definition (13 CFR 121.201).

This proposed rule would decrease the rate of the assessment from 0.45 percent of the market value of porcine animals to 0.40 percent, and would decrease the cents per pound and per kilogram of assessments on imported pork and pork products subject to assessment. Adjusting the rate of assessment from 0.45 percent to 0.40 percent and decreasing the assessment on imported pork and pork products would result in an estimated decrease in assessments of $5 million to $6 million over a 12-month period. Of that amount, approximately $290,000 would be attributed to the decrease in importer assessments. The gross market value of all swine marketed in the United States during 2000 exceeded $11.7 billion. This decrease would reduce the assessment burden on producers. The adjustment in importer assessments also would bring the equivalent market value of live animals from which imported pork and pork products are derived in line with the market value of domestic porcine animals. A HTS number for prepared or preserved pork also would be added to the regulations. Therefore, the economic impact of the proposed assessments will not be a significant part of the total market value of swine. Accordingly, the Administrator of the Agricultural Marketing Service (AMS)

has determined that this action will not have a significant economic impact on a substantial number of small entities.

The Act (7 U.S.C. 4801–4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, 56 FR 4, 56 FR 51635, 60 FR 29963, 61 FR 29002, 62 FR 26205, 63 FR 45936, 64 FR 44643, and 66 FR 67071) and assessments began on November 1, 1986. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and on imported porcine animals with an equivalent assessment on pork and pork products. However, that rate was increased to 0.35 percent effective December 1, 1991 (56 FR 51635), and to 0.45 percent effective September 3, 1995 (60 FR 29963). Based on the assessment rate of 0.45 percent, the total annual assessments collected during 2001 were approximately $57.4 million. Assessments on imported pork and pork products accounted for about $3.7 million of the total.

The Order requires that producers pay to the National Pork Board an assessment of 0.45 percent of the market value of each porcine animal upon sale. However, for purposes of collecting and remitting assessments, porcine animals are divided into three separate categories (1) feeder pigs, (2) slaughter hogs, and (3) breeding stock. The Order specifies that purchasers of feeder pigs, slaughter hogs, and breeding stock shall collect an assessment on these animals if assessments are due. The Order further provides that for the purpose of collecting and remitting assessments persons engaged as a commission merchant, auction market, or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be deemed to be a purchaser.

The Order requires importers of porcine animals to pay U.S. Customs Service (USCS), upon importation, the assessment of 0.45 percent of the porcine animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.45 percent of the market value of the live porcine animals from which such pork and pork producers were produced.

The Act and § 1230.71 of the Order contain provisions for adjusting the initial rate of assessment. The Delegate Body has the responsibility to recommend the rate of assessment to the Department. The 2002 Delegate Body, at its annual meeting on March 1–2, 2002, in Denver, Colorado, voted to recommend to the Department that the rate of assessment of 0.45 percent be decreased to 0.40 percent. There were 167 Delegate Body members appointed by the Secretary in 2002. At the Delegate Body meeting 144 delegates were present during voting and voted 50,750.1 valid share votes. States and importers are allotted one share per $1,000 of the aggregated amount of assessment collected. There were 29,974.9 share votes cast in favor of the 0.05 percent decrease.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the rate of assessment or changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic and porcine animals and imported pork and pork products.

This proposed rule would decrease the amount of assessment on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule December 28, 2001, and effective on January 28, 2002 (66 FR 67071). The assessment decrease reflects the Delegate Body's desire to lessen the assessment burden on producers and make such funds available to pork producers and the industry. The adjustment in importer assessments also would bring the equivalent market value of live animals from which imported pork and pork products are derived in line with the market value of domestic porcine animals. A HTS number for prepared or preserved pork also would be added to the regulations.

The methodology for determining the per-pound amounts for imported pork and pork products was described in the supplementary information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the Department's Agricultural Handbook No. 697 ''Conversion Factors and Weights and Measurers.'' These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 74 percent, which is the average dressing percentage of porcine animals in the United States as recognized by the industry. Thirdly, the equivalent value of the live porcine animals is determined by multiplying the live animal equivalent weight by an annual average market price for barrows and gilts as calculated by the Department's, AMS, Livestock and Grain Market News (LGMN) Branch. Finally, the equivalent value is multiplied by the applicable assessment rate due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

Since the last adjustment was made in the amount of the assessment due on live hogs and imported pork and pork products (66 FR 67071), there has been a change in the way LGMN Branch reports hog prices. Due to the implementation of the Livestock Mandatory Price Reporting Program, LGMN no longer report hogs on a live basis because most of the industry moved to buying hogs on a carcass basis. Thus, the Iowa-Southern Minnesota hog reports are now reported on a carcass basis defined by muscle and fat. Previously, these reports were quoted for 49–52 percent lean yield barrows and gilts weighing an average of 240–280 pounds live weight. Therefore, the only consistent price available for hogs for calendar year 2001 is the average base carcass price for 51–52 percent lean hogs derived from the National Base Lean Hog Carcass Slaughter Cost Report. To convert this figure to a live basis, it must be multiplied by 74 percent, the average dressing percentage of porcine animals in the United States as recognized by the industry.

The average annual market price increased from $42.70 per hundredweight in 2000 to $45.87 per hundredweight in 2001, an increase of about 7 percent. The combined effect of the proposed assessment rate decrease and the increase in the average annual market price would result in a decrease in assessments for all HTS numbers listed in the table in § 1230.110(b), 66 FR 67071; December 28, 2001, of an amount equal to two- to four-hundredths of a cent per pound, or as

expressed in cents per kilogram, four-hundredths to nine-hundredths of a cent per kilogram. Based on Department of Commerce, Bureau of Census, data on the volume of pork and pork products imported during 2001, the proposed decreases in the assessment amounts would result in an estimated $290,000 decrease in importer assessments over a 12-month period. In addition, this rule adds a new HTS number—1602.49.9000—to the table in § 1230.110(b). This HTS number has been assigned to prepared or preserved pork. In 2001, over 2,114 metric tons of prepared or preserved pork products were imported into the United States as reported by the Department of Commerce.

This proposed rule provides for a 30-day comment period which is deemed appropriate because the proposed rule provides for a decrease in the assessment rate and it is intended to implement this change, if adopted, as soon as possible so that the funds representing the decrease will be available to pork producers and the pork industry at the earliest possible date.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agriculture research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1230 be amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B—[Amended]

2. Section 1230.110 is revised to read as follows:

§ 1230.110 Assessments on imported pork and pork products.

(a) The following Harmonized Tariff Schedule (HTS) categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.0000	0.40 percent Customs Entered Value.
0103.91.0000	0.40 percent Customs Entered Value.
0103.92.0000	0.40 percent Customs Entered Value.

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and Pork Products	Assessment	
	cents/lb	cents/kg
0203.11.0000	.25	.551150
0203.12.1010	.25	.551150
0203.12.1020	.25	.551150
0203.12.9010	.25	.551150
0203.12.9020	.25	.551150
0203.19.2010	.29	.639334
0203.19.2090	.29	.639334
0203.19.4010	.25	.551150
0203.19.4090	.25	.551150
0203.21.0000	.25	.551150
0203.22.1000	.25	.551150
0203.22.9000	.25	.551150
0203.29.2000	.29	.639334
0203.29.4000	.25	.551150
0206.30.0000	.25	.551150
0206.41.0000	.25	.551150
0206.49.0000	.25	.551150
0210.11.0010	.25	.551150
0210.11.0020	.25	.551150
0210.12.0020	.25	.551150
0210.12.0040	.25	.551150
0210.19.0010	.29	.639334
0210.19.0090	.29	.639334
1601.00.2010	.34	.749564
1601.00.2090	.34	.749564
1602.41.2020	.37	.815702
1602.41.2040	.37	.815702
1602.41.9000	.25	.551150
1602.42.2020	.37	.815702
1602.42.2040	.37	.815702
1602.42.4000	.25	.551150
1602.49.2000	.34	.749564
1602.49.4000	.29	.639334
1602.49.9000	.29	.639334

3. Section 1230.112 is revised to read as follows:

§ 1230.112 Rate of assessment.

In accordance with § 1230.71(d) the rate of assessment shall be 0.40 percent of market value.

Dated: July 15, 2002.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–18258 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1470

RIN 0560–AG63

Apple Market Loss Assistance Payment Program II

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This rule establishes the Apple Market Loss Assistance Payment Program II. The program will provide direct payments to apple producers to provide relief due to the low prices received for their 2000 crop.

DATES: Comments on this rule must be received on or before August 19, 2002, to be assured consideration. Comments on the information collections in this rule must be received by September 17, 2002 to be assured consideration.

ADDRESSES: Comments should be mailed to Grady Bilberry, Director, Price Support Division (PSD), Farm Service Agency (FSA), United States Department of Agriculture (USDA), STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250–0512; telephone (202) 720–7901 or e-mail: *danielle_cooke@wdc.usda.gov.* Comments may be inspected in the Office of the Director, PSD, FSA, USDA, Room 4095 South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this proposed rule is available on the PSD home page at *http://www.fsa.usda.gov/dafp/psd/.*

FOR FURTHER INFORMATION CONTACT: Danielle Cooke, FSA; telephone (202) 720–1919

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking on the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws that are inconsistent with this rule. Before any judicial action may be brought concerning this rule, the administrative remedies must be exhausted.

Executive Order 12372

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

Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking on the subject matter of this rule. Further, in any case, these provisions do not impose any mandates on state, local or tribal governments, or the private sector.

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalogue of Federal Domestic Assistance, to which this rule applies are: 10.075—Special Apple Program.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA has submitted an emergency information collection request to OMB for the approval of the Apple Market Loss Assistance Payment Program application as necessary for the proper functioning of the program.

Title: Apple Market Loss Assistance Payment Program.

OMB Control Number: 0560–0210.

Type of Request: Request for a reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: Apple operations are eligible to receive direct payments provided they make certifications that attest to their eligibility to receive such payments. As appropriate, these operations must certify: (1) The pounds of apples produced and harvested during the 2000 crop year; (2) receipt of no other payments by the apple operation for the market loss of apples from any other Federal program, except Federal Crop Insurance; and (3) that they understand the apple operation may be randomly selected by the Commodity Credit Corporation (CCC) to provide documentation during a spot check to verify claims. The information collection will be used by CCC to determine the program eligibility of apple operations. CCC considers the information collected essential to prudent eligibility determinations and payment calculations. Additionally, without accurate information on apple operations, the national payment rate would be inaccurate, payments could be made to ineligible recipients, and the integrity and accuracy of the program could be compromised.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Apple Operations.

Estimated Number of Respondents: 10,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 10,840 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; or (d) ways to minimize the burden of the collection of the 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. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Grady Bilberry, Director, Price Support

Division, Farm Service Agency, United States Department of Agriculture, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0512 or telephone (202) 720–7901.

Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

Section 741 of Public Law 107–76 directs the Secretary of Agriculture to use $75 million of funds of the Commodity Credit Corporation (CCC) to provide assistance to producers for the 2000 crop of apple production.

During the past few years a number of factors have produced a serious economic crisis that threatens the existence of apple producers throughout the United States. Apples are grown in every state in the continental United States, and are grown commercially in 36 states. Twenty years of increasing world production, stagnant domestic consumption, natural disasters and low-priced juice imports have altered the blueprint for economic success in the apple industry.

This rule would address the situation by establishing a new program. The payments provided by this rule will offset a portion of the per-bushel losses producers have incurred marketing apples in the U.S. Those eligible will receive an immediate payment to help pay operating expenses and meet other financial obligations.

The Act, as amended by Public Law 107–117, provides that producers of apples can receive a payment on a per-pound basis for 2000 crop production from a qualifying operation, up to a maximum of 5,000,000 pounds per separate apple operation. To be eligible, apple producers must: (1) Have produced and harvested apples during the 2000 crop year, (2) not have received a payment from any other Federal program, other than crop insurance, for the same market loss, and (3) apply for cash payments during the application period for each apple operation. Public Law 107–76 also specified that benefits under the program would not be subject to limitations, other than those provided for in the statute. Therefore, producers do not have to be actively engaged in the business of producing and marketing agricultural products at the time of application if the producer was actively engaged during the 2000 crop year. At the close of the sign-up period, a national per-pound payment rate will be determined by dividing the available $75,000,000 by the total pounds of apples from all applicants, with no operation exceeding 5,000,000 pounds. Because outlays for this program are fixed, the national average payment rate and individual payments can only be calculated after the total eligible quantity of apple production has been determined. Information provided on applications will be subject to verification by FSA. Applications to be verified will be selected randomly. Penalties for false certifications can be easily assessed and are expected to minimize such certifications. Apple operations may, during the applicable period, apply in person at FSA county offices during regular business hours. Alternatively, program applications may be obtained by mail, telephone, and facsimile from their designated FSA county office or obtained via the Internet. The Internet website is located at *www.fsa.usda.gov/dafp/psd/.*

List of Subjects in 7 CFR Part 1470

Apple, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR part 1470 is proposed to be amended as follows:

PART 1470—APPLE MARKET LOSS ASSISTANCE PAYMENT PROGRAM

1. The authority citation for part 1470 is revised to read as follows:

Authority: Sec. 811, Pub. L. 106–387, 114 Stat. 1549; Sec. 741, Pub. L. 107–76, 115 Stat. 704; Sec. 102, Pub. L. 107–117, 115 Stat. 2230.

2. Redesignate §§ 1470.1 through 1470.16 as subpart A and add a heading for subpart A to read as follows:

Subpart A—Apple Market Loss Payment Program

3. Add subpart B to part 1470 to read as follows:

Subpart B—Apple Market Loss Assistance Payment Program II

Sec.

1470.101 Applicability.
1470.102 Administration.
1470.103 Definitions.
1470.104 Time and method of application.
1470.105 Eligibility.
1470.106 Proof of production.
1470.107 Availability of funds.
1470.108 Applicant payment quantity.
1470.109 Payment rate and apple operation payment.
1470.110 Offsets and withholdings.
1470.111 Assignments.
1470.112 Appeals.
1470.113 Misrepresentation and scheme or device.
1470.114 Estates, trusts, and minors.
1470.115 Death, incompetency, or disappearance.
1470.116 Maintenance and inspection of records.
1470.117 Refunds; joint and several liability.

Subpart B—Apple Market Loss Payment Program II

§ 1470.101 Applicability.

(a) The regulations in this subpart are applicable to producers of the 2000 crop of apples. These regulations set forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to apple producers who have applied to participate in the Apple Market Loss Assistance Payment Program II in accordance with section 741 of Public Law 107–76, as amended by Public Law 107–117. Additional terms and conditions may be set forth in the payment application that must be executed by participants to receive a market loss payment for apples.

(b) Payments shall be available only for apples produced and harvested in the United States.

§ 1470.102 Administration.

(a) The Apple Market Loss Assistance Payment Program II shall be administered under the general supervision of the Executive Vice President, CCC (Administrator, FSA), or a designee, and shall be carried out in the field by FSA State and county committees (State and county committees) and FSA employees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) The State committee shall take any action required by the regulations of this subpart that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require the county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this subpart; and

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

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

(e) The Deputy Administrator, Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements do not adversely affect the operation of the Apple Market Loss Assistance Payment Program II and does not violate statutory limitations on the program.

(f) Payment applications and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution outside of the dates authorized by CCC, shall be null and void unless the Executive Vice President, CCC, shall otherwise allow.

§ 1470.103 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the Apple Market Loss Assistance Payment Program II established by this subpart.

Administrator means the FSA Administrator.

Apple operation means any person or group of persons who, as a single unit as determined by CCC, produces and market apples in the United States.

Application means Form CCC–891, the Apple Market Loss Assistance Payment Application.

Application period means the date established by the Deputy Administrator for producers to apply for program benefits.

CCC means the Commodity Credit Corporation.

County committee means the FSA county committee.

County office means the local FSA office.

Department or USDA means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs (DAFP), Farm Service Agency (FSA) or a designee.

Eligible production means apples that were produced in the United States anytime during the 2000 crop year, up to a maximum of 5,000,000 pounds per apple operation.

Farm Service Agency or FSA means the Farm Service Agency of the Department.

Payment pounds means the pounds of apples for which an operation is eligible to be paid under this subpart.

Person means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen of, or legal resident alien or aliens in the United States.

Secretary means the Secretary of the United States Department of Agriculture or any other officer or employee of the Department who has been delegated the authority to act in the Secretary's stead with respect to the program established in this part.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

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

§ 1470.104 Time and method of application.

(a) Apple producers may obtain an Application, in person, by mail, by telephone, or by facsimile from any county FSA office.

(b) A request for benefits under this subpart must be submitted on a completed Application as defined in § 1470.103. Applications should be submitted to the FSA county office serving the county where the apple operation is located but, in any case, must be received by the FSA county office by the close of business on the date established by the Deputy Administrator. Applications not received by the close of business on such date will be disapproved as not having been timely filed and the apple operation will not be eligible for benefits under this program.

(c) All persons who share in the risk of an apple operation's total production must certify to the information on the Application before the Application will be considered complete.

(d) The apple operation requesting benefits under this subpart must certify to the accuracy and truthfulness of the information provided in their application. All information provided is subject to verification by CCC. Refusal to allow CCC or any other agency of the Department of Agriculture to verify any information provided will result in a denial of eligibility. Furnishing the information is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

§ 1470.105 Eligibility.

(a) To be eligible to receive a payment under this subpart, an apple operation must:

(1) Have produced apples in the United States at some time during the 2000 crop year;

(2) Not have been compensated for the same market loss by any other Federal programs, except an indemnity provided under a policy or plan of insurance offered under the Federal Crop Insurance Act (7 U.S.C. 1501).

(3) Apply for payments during the application period.

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

(c) An apple operation must submit a timely application and comply with all other terms and conditions of this subpart and instructions issued by CCC, as well as comply with those instructions that are otherwise contained in the application to be eligible for benefits under this subpart.

(d) All payments under this part are subject to the availability of funds.

§ 1470.106 Proof of production.

(a) Apple operations selected for spot checks by CCC must, in accordance with instructions issued by the Deputy Administrator, provide adequate proof of the apples produced during the 2000 crop year to verify production. The documentary evidence of apple production claimed for payment shall be reported to CCC together with any supporting documentation under paragraph (b) of this section. The 2000 crop year production must be documented using actual records.

(b) All persons involved in such apple operation producing apples during the 2000 crop year shall provide any available supporting documents to assist the county FSA office in verifying the operation's apple production indicated on the Application. Examples of supporting documentation include, but are not limited to: picking, packout, and payroll records, RMA records, sales documents, copies of receipts, ledgers of income, or any other documents available to confirm the production and production history of the apple operation. In the event that supporting documentation is not presented to the county FSA office requesting the information, apple operations will be determined ineligible for benefits.

§ 1470.107 Availability of funds.

The total available program funds shall be $75 million as provided by

section 741 of Public Law 107–76 except as determined appropriate by the Executive Vice President of CCC and authorized by law. Any discretion in such matters shall be the discretion of the Executive Vice President alone.

§ 1470.108 Applicant payment quantity.

(a) The applicant's payment quantity of apples will be determined by CCC, based on the production of the 2000 crop of apples that was produced by each operation.

(b) The maximum quantity of apples for which producers are eligible for a payment under this subpart shall be 5,000,000 pounds per distinct operation. The Deputy Administrator shall determine what may be considered a distinct operation and that decision shall be final.

§ 1470.109 Payment rate and apple operation payment.

(a) A national per-pound payment rate will be determined after the conclusion of the application period, and shall be calculated, to the extent practicable, by dividing the $75 million available for the Apple Market Loss Assistance Payment Program II by the total pounds of eligible production approved for payment.

(b) Each eligible apple operation's payment will be calculated by multiplying the payment rate determined in paragraph (a) of this section by the apple operation's eligible production.

(c) In the event that approval of all eligible applications would result in expenditures in excess of the amount available, CCC shall reduce the payment rate in such manner as CCC, in its sole discretion, finds fair and reasonable.

(d) A reserve may be created to handle claims but claims shall not be payable once the available funding is expended.

§ 1470.110 Offsets and withholdings.

CCC may offset or withhold any amount due CCC under this subpart in accordance with the provisions of 7 CFR part 1403.

§ 1470.111 Assignments.

Any person who may be entitled to a payment may assign his rights to such payment in accordance with 7 CFR part 1404 or successor regulations as designated by the Department.

§ 1470.112 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this subpart may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780.

§ 1470.113 Misrepresentation and scheme or device.

(a) An apple operation shall be ineligible to receive assistance under this program if it is determined by the State committee or county committee to have knowingly:

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

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a determination under this program. CCC will notify the appropriate investigating agencies of the United States and take steps deemed necessary to protect the interests of the government.

(b) Any funds disbursed pursuant to this part to any person or operation engaged in a misrepresentation, scheme, or device, shall be refunded to CCC in accordance with § 1470.117(a). The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 1470.114 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible for assistance under this part must also:

(1) Establish that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) Show that a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1470.115 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in part 707 of this chapter may receive such benefits, as determined appropriate by FSA.

§ 1470.116 Maintenance and inspection of records.

(a) Persons making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein, as may be requested by CCC. Such records and accounts must be retained for 3 years after the date of payment to the apple operation under this program. Destruction of the records 3 years after the date of payment shall be the risk of the party undertaking the destruction.

(b) At all times during regular business hours, authorized representatives of CCC, the United States Department of Agriculture, or the Comptroller General of the United States shall have access to the premises of the apple operation in order to inspect, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraph (a) of this section.

(c) Any funds disbursed pursuant to this part to any person or operation who does not comply with the provisions of paragraphs (a) or (b) of this section, or who otherwise receives a payment for which they are not eligible, shall be refunded with interest.

§ 1470.117 Refunds; joint and several liability.

(a) In the event of an error on an Application, a failure to comply with any term, requirement, or condition for payment arising under the Application, or this subpart, all improper payments shall be refunded to CCC together with interest and late payment charges as provided in part 1403 of this chapter.

(b) All persons signing an apple operation's application for payment as having an interest in the operation shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

Signed in Washington, DC, on June 28, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–18218 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–05–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE89

Small Business Size Standards; Forest Fire Suppression and Fuels Management Services

AGENCY: U. S. Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to establish a $15 million size standard for the Forest Fire Suppression and Fuels

Management activities classified within the ''Support Activities for Forestry'' industry (North American Industry Classification System (NAICS) 115310). The current size standard is $6 million. This action is warranted in light of increased emphasis by the Federal Government on removing biomass fuel from the nation's forests, the dramatic increase in funding for this effort, and the Government's growing reliance upon the private sector to perform fuels management tasks and to suppress forest fires.

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW., Mail Code 6530, Washington, DC 20416; or via E-mail to *SIZESTANDARDS@sba.gov.* Upon request, SBA will make all public comments available.

FOR FURTHER INFORMATION CONTACT: Diane Heal, Office of Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: SBA has received requests from firms in the Forestry industry to either increase the $6 million size standard for the Support Activities for Forestry industry, or create a separate size standard under this industry for Forest Fire Suppression and Fuels Management Services. [Effective February 22, 2002, the size standard for NAICS 115310 increased from $5 million to $6 million as part of an inflation adjustment to SBA's monetary size standards (see 67 FR 3041, dated January 23, 2002)]. These firms believe that this action is warranted in light of increased emphasis by the Federal Government on removing biomass fuels from the nation's forests, the dramatic increase in funding for this effort, and the Government's growing reliance upon the private sector to perform fuels management tasks and to suppress forest fires. Funding for these requirements increased from $500 million in fiscal year 1999 to $1.9 billion in fiscal year 2001. For fiscal year 2002, the funding level is proposed to increase to $2.2 billion. To meet the various fire suppression and fuels management requirements issued by the United States Forest Service (USFS) and Bureau of Land Management (BLM), firms need to invest in new capital equipment, such as fire engines, helicopters, brush cutters, and yarders. In addition, the massive buildup of biomass fuels in the forest and severe droughts in the Southeastern and Western sections of the United States have resulted in devastating wildfires in these areas. USFS and BLM now rely heavily on contractors for fighting these fires. In fact, these agencies plan on expanding their use of private sector contractors by increasing their contract requirements and by moving toward a nationwide approach, especially in the area of fire suppression. These agencies require contractors to provide specialized long-term (five to seven years) certifiable training to fire-crew chiefs and to crews, as well as to obtain USFS certification for fire-fighting equipment. In addition, because the contractors have fire-fighting crews and equipment meeting USFS certification standards, USFS and BLM have begun to include ''prescribed burn'' services in their fuels management requirements. These factors caused company revenues to dramatically increase over the last three years to the point where many businesses involved in these activities exceed or may soon exceed the current $6 million size standard, causing the pool of eligible small businesses in this activity to seriously decline. If this continues, these firms argue, Federal agencies could be hampered in using Government procurement preference programs for small business. One organization representing this industry recommends a 500-employee size standard. It claims that an employee-based size standard would allow firms ''to better manage their resources and plan for capital expansion.'' It also states that the Logging industry, a related industry, currently has an employee-based size standard and the two industries should have the same size standard. This organization also recommends, as an alternative, a $27.5 million size standard. To support this recommended size standard, it estimates the amount of revenues generated by a firm that provides 20 fire crews (a crew consists of 20 people) for 90 days for forest fire suppression services. Revenues from that effort alone could amount to $10.8 million.

In recent years USFS and BLM have come to rely heavily on the private sector in the forestry industry to suppress forest fires and perform fuels management duties. As a result, the firms in the forest industry choosing to go into this industry need to invest in capital equipment and develop professional fire crews and fire chiefs certifiable by USFS. Since firms in this emerging industry utilize significantly more capital equipment and specially-trained personnel than for other forestry activities, SBA is proposing a size standard for Forest Fire Suppression and Fuels Management that is separate from other forestry activities.

Because Forest Fire Suppression and Fuels Management activities generated significant private sector activity only recently, the U. S. Bureau of the Census has not published specific information on firms engaged in these activities. Also, currently available Census Bureau data on the Support Activities for Forestry industry do not capture the significant increases in Forest Fire Suppression and Fuels Management activities. For example, contract awards in these activities to firms in the state of Oregon alone, increased from $29 million in fiscal year 1998 to $173 million in fiscal year 2000. Consequently, SBA cannot rely on the Census Bureau data to assess the size standard for the Support Activities for Forestry industry or for Forest Fire Suppression and Fuels Management. SBA conducted an extensive review of the Support Activities for Forestry industry and several other closely related forestry industries and concluded that the Census Bureau data could not support a change to the current $6 million size standard. Therefore, SBA collected data from firms in the industry and from USFS and BLM to assess the size standard for Forest Fire Suppression and Fuels Management. The information consisted of Federal funding for Federal, state, and local communities' initiatives, procurement statistics and procurement forecasts, company revenues and employees, and capital investments. If this rule is adopted, SBA will monitor U. S. Bureau of the Census data, as well as Federal procurement and other industry data to continue to assess the impact that this increased funding is having on the structure of small businesses in these activities.

Since Forest Fire Suppression and Fuels Management is a segment of the Support Activities for Forestry industry, SBA is adding a footnote to the table of size standards defining the activities covered. It explains that firms in this industry provide services to fight forest fires and that these firms usually have fire-fighting crews and equipment. It also includes firms that provide services to clear land of hazardous materials that fuel forest fires and that the treatments used include prescribed fire, mechanical removal, establishing fuel breaks, thinning, pruning, and piling. SBA invites comment on this definition so that it is inclusive of all activities currently performed in these areas.

Size Standards Methodology: Congress granted SBA discretion to establish detailed size standards. SBA's Standard Operating Procedure (SOP) 90 01 3, ''Size Determination Program'' (available on SBA's web site at http:/

www.sba.gov/library/soproom.html) sets out four categories for establishing and evaluating size standards: (1) The structure of the industry and its various economic characteristics, (2) SBA program objectives and the impact of different size standards on these programs, (3) whether a size standard successfully excludes those businesses which are dominant in the industry, and (4) other factors if applicable. Other factors, including the impact on other agencies' programs, may come to the attention of SBA during the public comment period or from SBA's own research on the industry. No formula or weighting has been adopted so that the factors may be evaluated in the context of a specific industry. Below is a discussion of SBA's analysis of the economic characteristics of an industry, the impact of a size standard on SBA programs, and the evaluation of whether a firm at or below a size standard could be considered dominant in the industry under review.

Industry Analysis: The Small Business Act, 15 U.S.C. 632 (a)(3), requires that size standards vary by industry to the extent necessary to reflect differing industry characteristic. SBA has in place two ''base'' or ''anchor'' size standards that apply to most industries—500 employees for manufacturing industries and $6 million for nonmanufacturing industries. SBA established 500 employees as the anchor size standard for the manufacturing industries at SBA's inception in 1953 and shortly thereafter established a $1 million size standard for the nonmanufacturing industries. The receipts-based anchor size standard for the nonmanufacturing industries was periodically adjusted for inflation so that, currently, the anchor size standard for the nonmanufacturing industries is $6 million. Anchor size standards are presumed to be appropriate for an industry unless its characteristics indicate that larger firms have a much greater significance within that industry than the ''typical industry.''

When evaluating a size standard, the characteristics of the specific industry under review are compared to the characteristics of a group of industries, referred to as a comparison group. A comparison group is a large number of industries grouped together to represent the typical industry. It can be comprised of all industries, all manufacturing industries, all industries with receipt-based size standards, or some other logical grouping. If the characteristics of a specific industry are similar to the average characteristics of the comparison group, then the anchor size standard is considered appropriate for the industry. If the specific industry's characteristics are significantly different from the characteristics of the comparison group, a size standard higher or, in rare cases, lower than the anchor size standard may be considered appropriate. The larger the differences between the specific industry's characteristics and the comparison group, the larger the difference between the appropriate industry size standard and the anchor size standard. Only when all or most of the industry characteristics are significantly smaller than the average characteristics of the comparison group, or other industry considerations strongly suggest the anchor size standard would be an unreasonably high size standard for the industry under review, will SBA adopt a size standard below the anchor size standard.

In 13 CFR 121.102 (a) and (b), evaluation factors are listed which are the primary factors describing the structural characteristics of an industry'average firm size, distribution of firms by size, start-up costs, and industry competition. The analysis also examines the possible impact of a size standard revision on SBA's programs as an evaluation factor. SBA generally considers these five factors to be the most important evaluation factors in establishing or revising a size standard for an industry. However, it will also consider and evaluate other information that it believes relevant to the decision on a size standard as the situation warrants for a particular industry. Public comments submitted on proposed size standards are also an important source of additional information that SBA closely reviews before making a final decision on a size standard. Below is a brief description of each of the five evaluation factors.

1. *Average firm size* is simply total industry receipts (or number of employees) divided by the number of firms in the industry. If the average firm size of an industry is significantly higher than the average firm size of a comparison industry group, this fact would be viewed as supporting a size standard higher than the anchor size standard. Conversely, if the industry's average firm size is similar to or significantly lower than that of the comparison industry group, it would be a basis to adopt the anchor size standard or, in rare cases a lower size standard.

2. *The distribution of firms by size* examines the proportion of industry receipts, employment or other economic activity accounted for by firms of different sizes in an industry. If the preponderance of an industry's economic activity is by smaller firms, this tends to support adopting the anchor size standard. The opposite is the case for an industry in which the distribution of firms indicates that economic activity is concentrated among the largest firms in an industry. In this rule, SBA is comparing the size of firms within an industry to the size of firms in the comparison group at which predetermined percentages of receipts are generated by firms smaller than a particular size firm. For example, assume for the industry under review that 50 percent of total industry receipts are generated by firms of $7.5 million in receipts and less This contrasts with the comparison group (composed of industries with the nonmanufacturing anchor size standard of $6 million) in which firms of $5.8 million or less in receipts generated 50 percent of total industry receipts. Viewed in isolation, this higher figure of the industry under review suggests that a size standard higher than the nonmanufacturing anchor size standard may be warranted. Other size distribution comparisons in the industry analysis include 40 percent, 60 percent, and 70 percent, as well as the 50 percent comparison discussed above. Usually, SBA uses information based on the most recent economic census conducted by the Department of Commerce's Bureau of the Census. In this particular case, the change in Federal policy, the massive infusion of Federal monies, and the increased reliance upon the private sector for these services occurred since 1997, the date of the last economic census. This information, along with information specific to Forest Fire Suppression and Fuels Management segment under NAICS Code 115310 is not reflected in the latest census data. Therefore, SBA gathered the pertinent data from the various firms in this industry, which it will use along with the Census data.

3. *Start-up costs* affect a firm's initial size because entrants into an industry must have sufficient capital to start and maintain a viable business. To the extent that firms entering into one industry have greater financial requirements than firms do in other industries, SBA is justified in considering a higher size standard. In lieu of direct data on start-up costs, SBA uses a proxy measure to assess the financial burden for entry-level firms. SBA uses nonpayroll costs per establishment as a proxy measure for start-up costs. This is derived by first calculating the percent of receipts in an industry that are either retained or expended on costs other than payroll costs. (The figure comprising the

numerator of this percentage is mostly composed of capitalization costs, overhead costs, materials costs, and the costs of goods sold or inventoried.) This percentage is then applied to average establishment receipts to arrive at nonpayroll costs per establishment (an establishment is a business entity operating at a single location). An industry with a significantly higher level of nonpayroll costs per establishment than that of the comparison group is likely to have higher start-up costs that would tend to support a size standard higher than the anchor size standard. Conversely, if the industry showed a significantly lower nonpayroll costs per establishment when compared to the comparison group, the anchor size standard would be considered the appropriate size standard.

4. *Industry competition* is assessed by measuring the proportion or share of industry receipts obtained by firms that are among the largest firms in an industry. In this proposed rule, SBA compares the proportion of industry receipts generated by the four largest firms in the industry'generally referred to as the ''four-firm concentration ratio''with the average four-firm concentration ratio for industries in the comparison groups. If a significant proportion of economic activity within the industry is concentrated among a few relatively large producers, SBA tends to set a size standard relatively higher than the anchor size standard to assist firms in a broader size range to compete with firms that are larger and more dominant in the industry. In general, however, SBA does not consider this to be an important factor in assessing a size standard if the four-firm concentration ratio falls below 40 percent for an industry under review, while its comparison groups also average less than 40 percent.

5. *Competition for Federal procurements and SBA Financial Assistance.* SBA also evaluates the possible impact of a size standard on its programs to determine whether small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment most often focuses on the proportion or share of Federal contract dollars awarded to small businesses in the industry in question. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater is the justification for a size standard higher than the existing one.

As another factor to evaluate the impact of a proposed size standard on SBA programs, the volume of guaranteed loans within an industry and the size of firms obtaining those loans is assessed to determine whether the current size standard may restrict the level of financial assistance to firms in that industry. If small businesses receive ample assistance through these programs, or if the financial assistance is provided mainly to small businesses much lower than the size standard, a change to the size standard (especially, if it is already above the anchor size standard) may not be appropriate.

Evaluation of Size Standard for the Forest Fire Suppression and Fuels Management and Sub-Industry: The U.S. Bureau of the Census has not published specific data on firms engaged in Forest Fire Suppression and Fuels Management since these activities have historically been a small segment of the Support Activities for Forestry industry. Consequently, the analysis of data collected on businesses engaged in Forest Fire Suppression and Fuels Management cannot be fully evaluated in terms of the methodology described above.

To assess a size standard for Forest Fire Suppression and Fuels Management, SBA collected data from firms in the northwestern part of the United States. Changes in contracting for these forestry services are impacting the entire industry, especially in the northwestern part of the country. Because the Government owns a vast proportion of the lands in the northwest, and because of the increased emphasis on Forest Fire Suppression and Fuels Management on Federal lands, the problem of small businesses rapidly outgrowing the size standard arose in these states. This issue is not limited to the Northwest, as the Federal Government has begun expanding it emphasis on contracting for these services to the remainder of the country. USFS and BLM expect similar situations to develop nationwide where small businesses may rapidly outgrow the current size standard.

The issue of increased contracting began in the northwestern part of the country. Although these firms represent a limited segment of the industry, the Federal Government currently expends a large proportion its forestry contract dollars in this part of the country. In fiscal year 2000, 41 percent of award dollars for Support Activities for Forestry were awarded to firms in the state of Oregon. SBA believes that the firms in the northwest represent the types of firms that will engage in Fuels Management and Fire Suppression throughout the country as USFS and BLM expand their contracting for these activities to other parts of the country.

SBA obtained size data on 15 firms. The average firm performing Forest Fire Suppression and Fuels Management have yearly revenues of $6 million and 164 employees. These levels are significantly greater than the $950,000 average revenue size and 11 employee average size of the nonmanufacturing anchor group. These data, although limited, indicate that firms engaged in these activities tend to be greater in size than the typical nonmanufacturing industry and a size standard well above $6 million is supportable.

In addition, SBA found that start up costs for Forest Fire Suppression and Fuels Management firms are much higher than those in the nonmanufacturing anchor group. These firms must invest in a variety of equipment, purchase specialized tools and safety gear, and provide specialized training to forest firefighters. The capital equipment includes yarders, earth moving equipment, custom fire trucks, helicopters, and communication equipment and mobile units. Fire hoses, fire-retardant clothing for their crews, and other fire-fighting equipment usually last no more than 18 months and often must be replaced two or three times a year, depending on the intensity of the fire season. Furthermore, each year at the start of the fire season and again at the time of a forest fire these firms must meet USFS certification requirement for their equipment and fire crews. Because of the dangers and risks associated with fighting forest fires and performing prescribed burns, these firms also incur higher insurance costs than firms in the nonmanufacturing anchor group. These equipment costs, training costs, and certification requirements influence the size of firms that engage in Fire Suppression and Fuels Management activities and support a size standard much higher than $6 million.

Federal procurement trends also support an increase to the current size standard and the creation of a specific size standard for Forest Fire Suppression and Fuels Management. Most Federal procurement actions reported in the Support Activities for Forestry industry are for Forest Fire Suppression and Fuels Management. Award dollars to small businesses in these industries have decreased 20 percent from fiscal year 1998 to fiscal year 2000. In addition, awards to small businesses in the Forest Fire Suppression and Fuels Management industry have decreased from 89 percent in fiscal year 1998 to approximately 50 percent in fiscal year

2000. As mentioned above, Federal funding in this area has drastically increased from $500 million in fiscal year 1999 to $1.9 billion in fiscal year 2001. For fiscal year 2002, funding is expected to top $2.2 billion. The rapid drop in small business awards has alarmed Federal agencies.

BLM and the USFS are extremely concerned that the increased Federal emphasis on forest management with its massive monetary infusion into their agencies, plus their growing reliance on private industry, caused many small businesses to outgrow the current size standard of $6 million. These two Federal agencies do not have the personnel to meet the increasing requirements placed upon them. They have begun to rely on the private sector and have increased the amount of contracting for all forestry activities, mostly for Fire Suppression and Fuels Management. Historically, the contractors that performed on these contracts have been small businesses. As these small business contractors take on significant amounts of new work over a relatively short period of time, several contractors exceeded the $6 million size standard and more will likely exceed the size standard over the next two years.

In addition, these Federal agencies, along with several firms, expressed concern over the fact that the Forest Fire Suppression and Fuels Management industry is relatively small (200 to 300 firms), unique, and most of this industry's revenues are derived from Federal contracts. Firms in the northwestern part of the United States point out that the Federal Government owns most of the land in the western part of the country, and that USFS and BLM manage this land. For most of these firms, their industry's economic viability relies heavily upon the actions of the Federal Government.

These circumstances strongly reinforce the industry structure factors in arguing for a separate size standard for Forest Fire Suppression and Fuels Management for a higher size standard higher than $6 million.

The considerations described above support a higher size standard for Fuels Management and Fire Suppression but do not provide sufficient information to indicate what range of size standards would be appropriate for these activities. Therefore, SBA decided to select a size standard for Forest Fire Suppression and Fuels Management that is similar to the size standard for industries that perform similar activities with equipment used in Forest Fires Suppression and Fuels Management.

SBA recognizes that firms performing Forest Fire Suppression and Fuels Management activities have higher capital costs because of the equipment and personnel training investments. In many ways, they are similar to firms in the construction industry, i.e., firms in NAICS Subsector 234, Heavy Construction, having a $28.5 million size standard, and firms under NAICS 235930, Excavation Contractors, having a $12 million size standard. Firms in these industries have large investments in capital equipment like firms in Forest Fire Suppression and Fuels Management. SBA believes that adopting a $12 million size standard similar to that of Excavation Contractors is too low because of the additional mandated training investments for fire crews and fire crew chiefs. However, the $28.5 million size standard is extremely high for Forest Fire Suppression and Fuels Management, as it would make nearly all firms in this industry small. Given the uncertainty of industry data provided and the fact that firms performing Forest Fire Suppression and Fuels Management have rapidly increasing revenues that exceed or will soon exceed $12 million, SBA is proposing a $15 million size standard. This size standard is about one-half the Heavy Construction size standard, but sufficiently above the Excavation Contractor's size standard to account for additional training and certification costs to businesses engaged in Forest Fire Suppression and Fuels Management.

SBA recognizes how this industry is developing. The structure of this industry is Federally dependent and the increased Government contracting for these services has caused rapid growth in these firms. Therefore, SBA considers that at the proposed $15.0 million size standard firms will be able to grow to an appropriate level without losing their small business status, but not to a level where a few firms would be able to control a significant portion of Federal contracts at the expense of other small businesses.

Dominant in Field of Operation: Section 3(a) of the Small Business Act defines a small concern as one that is (1) independently owned and operated, (2) not dominant in its field of operation and (3) within detailed definitions or size standards established by the SBA Administrator. SBA considers as part of its evaluation of a size standard whether a business concern at or below a proposed size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at the proposed or final size standard or other factors that may show whether a firm can exercise a controlling influence on a national basis in which significant numbers of business concerns are engaged.

The SBA has determined that no firm below the proposed size standard in the Forest Fire Suppression and Fuels Management Activities would be of a sufficient size to dominate its field of operation. For Forest Fire Suppression and Fuels Management Services, a firm with a $15 million size standard would generate approximately 2 percent of receipts based on fiscal year 2000 funding levels. These levels of market share effectively preclude any ability for a firm at or below the proposed size standards to exert a controlling effect on these industries.

Alternative Size Standards: SBA considered several alternative size standards. One of the Fuels Management industry groups recommends a $27.5 million size standard for Forest Fire Suppression and Fuels Management. The $27.5 million size standard equates to the previous size standard for the General Construction and Heavy Construction subsectors. [Effective February 22, 2002, the $27.5 size standard increased to $28.5 million as part of an inflation adjustment to SBA's monetary size standards (see 67 FR 3041, dated January 23, 2002)]. Firms in these subsectors usually have major capital equipment investments, similar to those in the Fire Suppression and Fuels Management industry. Firms involved in the General and Heavy Construction subsectors are primarily responsible for an entire construction project. These construction projects tend to be large in dollar value and, because of the nature of construction industry, lend themselves to a substantial amount of subcontracting. The regulation at 13 CFR 125.6, as implemented under the Federal Acquisition Regulations, 52–219–14, Limitation in Subcontracting Clause, qualifying small firms are permitted to subcontract out up to 85 percent of the cost of the contract. Unlike these types of construction firms, companies involved in Fire Suppression and Fuels Management must perform greater than 50 percent of the contract costs with its own employees. These types of contracts do not lend themselves to much subcontracting and normally have a lower dollar award threshold than general construction awards. In addition, by adopting a $27.5 million size standard, SBA would be making all but approximately 20 firms in the entire Support Activities for Forestry industry small. Therefore, SBA decided that a $27.5 million size

standard was too high for Fire Suppression and Fuels Management.

Like firms in Fire Suppression and Fuels Management, Excavation Contractors, which have an $12 million size standard, are engaged in clearing land and making substantial investments in capital equipment. However, firms involved in Fire Suppression and Fuels Management also have the added costs of intensive training and certification for crew chiefs and crews, and certification costs for their equipment at the time of contract award and at the time of each fire. Because of these training and certification costs, SBA decided that a $12 million size standard was too low.

The Fuels Management group also recommends the 500-employee Logging industry size standard for Forest Fire Suppression and Fuels Management. SBA did not accept this recommendation for two reasons. First, businesses engaged in Forest Fire and Fuels Management are not primarily logging firms. A search of logging firms registered in SBA's PRO-Net data base lists only 25 businesses out of 126 that are involved in Forest Fire Suppression or Fuels Management Services. Of these 25, none had more than 100 employees. Second, almost all firms engaged in Forest Fires Suppression and Fuels Management employ much fewer than 500 employees. SBA's PRO-Net data base lists only 7 businesses that has more than 100 employees engaged in Forest Fire Suppression and Fuels Management Services. SBA is concerned that a 500-employee size standard may have the effect of allowing a few firms to grow into well-established mid-sized firms at the expense of much smaller firms.

SBA welcomes public comments on its proposed size standard for the Forest Fire Suppression and Fuels Management industry. SBA is concerned with how the proposed size standards may negatively impact those qualified under the current size standards. Comments supporting an alternative to the proposal, including the option of retaining the size standards at $6 million, $27.5 million or 500-employees size standards discussed above, should explain why the alternative would be preferable to the proposed size standard, and how the alternative impacts current small businesses.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612)

The Office of Management and Budget (OMB) has determined that the proposed rule is a ''significant'' regulatory action for purposes of Executive Order 12866. Size standards determine which businesses are eligible for Federal small business programs. For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch.35, SBA has determined that this rule would not impose new reporting or record keeping requirements, other than those required of SBA. For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order. Our Regulatory Impact Analysis follows.

Regulatory Impact Analysis

i. Is There a Need for the Regulatory Action?

SBA is chartered to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist intended beneficiaries of these programs, SBA must establish distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to the SBA Administrator the responsibility for establishing small business definitions. It also requires that small business definitions vary to reflect industry differences. The preamble of this rule explains the approach SBA follows when analyzing a size standard for a particular industry. Based on that analysis, SBA believes that a size standard for Forest Fire Suppression and Fuels Management is needed to better define small businesses engaged in these activities.

ii. What Are the Potential Benefits and Costs of This Regulatory Action?

The most significant benefit to businesses obtaining small business status as a result of this rule is eligibility for Federal small business assistance programs. Under this rule, approximately 50 to 60 additional firms will obtain small business status and become eligible for these programs. These include SBA's financial assistance programs and Federal procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses, and small businesses located in Historically Underutilized Business Zones (HUBZone), as well as those for contracts awarded through full and open competition after application of the HUBZone or small disadvantaged business price evaluation preference or adjustment. Other Federal agencies use SBA size standards for a variety of regulatory and program purposes. SBA does not have information on each of these uses sufficient to evaluate the impact of size standards changes. However, in cases where SBA size standards are not appropriate, an agency may establish its own size standards with the approval of the SBA Administrator (see 13 CFR 121.801). Through the assistance of these programs, small businesses may benefit by becoming more knowledgeable, stable, and competitive businesses.

The benefits of a size standard increase to a more appropriate level would accrue to three groups: (1) Businesses that benefit by gaining small business status from the proposed size standards and use small business assistance programs, (2) growing small businesses that may exceed the current size standards in the near future and who will retain small business status from the proposed size standards, and (3) Federal agencies that award contracts under procurement programs that require small business status.

Newly defined small businesses would benefit from SBA's financial programs, in particular its 7(a) Guaranteed Loan Program. Under this program SBA estimates that $100,000 in new Federal loan guarantees could be made to the newly defined small businesses. Because of the size of the loan guarantees, most loans are made to small businesses well below the size standard. Thus, increasing the size standard to include 50 to 60 additional businesses will likely result in only one or two small business guaranteed loans to businesses in this industry.

The newly defined small businesses would also benefit from SBA's economic injury disaster loan program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected.

Awards to small businesses for Forest Fire Suppression and Fuels Management have decreased 27 percent over the last three fiscal years. Small business award dollars to firms in the Forestry Services Activities, most of which were for Forest Fire Suppression and Fuels Management, amounted to

$185 million. If this rule becomes final, small business status would be restored to several firms that have lost small business status because of the rapid growth in federal funding and contracting in this industry. SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $50 million per year ($185 million × 27 percent) under the small business set-aside program, the 8(a) and HUBZone Programs, or unrestricted contracts.

Federal agencies may benefit from the higher size standards if the newly defined and expanding small businesses compete for more set-aside procurements. The larger base of small businesses would likely increase competition and lower the prices on set-aside procurements. A large base of small businesses may create an incentive for Federal agencies to set aside more procurements, thus creating greater opportunities for all small businesses. Other than small businesses with small business subcontracting goals may also benefit from a larger pool of small businesses by enabling them to better achieve their subcontracting goals at lower prices. No estimate of cost savings from these contracting decisions can be made since data are not available to directly measure price or competitive trends on Federal contracts.

To the extent that approximately 50 to 60 additional firms could become active in Government programs, this may entail some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement programs, additional firms seeking SBA guaranteed lending programs, and additional firms eligible for enrollment in SBA's PRO-Net data base program. Among businesses in this group seeking SBA assistance, there will be some additional costs associated with compliance and verification of small business status and protests of small business status. These costs are likely to generate minimal incremental costs since mechanisms are currently in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts as a result of this rule. With greater numbers of businesses defined as small, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside is likely to result in competition among fewer bidders for a contract. Also, higher costs may result if additional full and open contracts are awarded to HUBZone and SDB businesses as a result of a price evaluation preference. However, the additional costs associated with fewer bidders are likely to be minor since, as a matter of policy, procurements may be set aside for small businesses or under the 8(a), and HUBZone Programs only if awards are expected to be made at fair and reasonable prices.

The proposed size standard may have distributional effects among large and small businesses. Although the actual outcome of the gains and losses among small and large businesses cannot be estimated with certainty, several trends are likely to emerge. First, a transfer of some Federal contracts to small businesses from large businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal procurements for small businesses. Also, some Federal contracts may be awarded to HUBZone or small disadvantaged businesses instead of large businesses since those two categories of small businesses are eligible for price evaluation preferences for contracts competed on a full and open basis. Similarly, currently defined small businesses may obtain fewer Federal contacts due to the increased competition from more businesses defined as small. This transfer may be offset by a greater number of Federal procurements set aside for all small businesses. The potential transfer of contracts away from large and currently defined small businesses would be limited by the number of newly defined and expanding small businesses that were willing and able to sell to the Federal Government. The potential distributional impacts of these transfers cannot be estimated with any degree of precision since the data on the size of business receiving a Federal contract are limited to identifying small or other-than-small businesses.

The revision to current size standard Forest Fire Suppression and Fuels Management is consistent with SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing and modifying size standards when appropriate ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with State, local, and tribal governments in the exercise of their government functions. In a few cases, State and local governments have voluntarily adopted SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities engaged in Forest Fire Suppression and Fuels Management Services. As described in the above Regulatory Impact Analysis, this rule may impact small entities in two ways. First, small businesses engaged in Forest Fire Suppression and Fuels Management competing for Federal Government procurements reserved for small business, and small disadvantaged businesses and HUBZone businesses eligible for price preferences, may face greater competition from newly eligible small businesses. Second, additional Federal procurements for Forest Fire Suppression and Fuels Management services may be set aside for small business as the pool of eligible small businesses expands. As discussed in the preamble, SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $50 million.

The proposed size standard may affect small businesses participating in programs of other agencies that use SBA size standards. As a practical matter, SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. For this particular proposed rule, SBA did consult with USFS and BLM regarding a possible increase to the Forest Fire Suppression and Fuels Management size standard. In cases where an SBA's size standard is not appropriate, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (13 CFR 121.902). For purposes of a regulatory flexibility analysis, agencies must consult with SBA's Office of Advocacy when developing different size standards for their programs (13 CFR 121.902(b)(4)).

Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule on the Forest Fire Suppression and Fuels Management Services industry addressing the following questions: (1) What is the need for and objective of the rule, (2) what is SBA's description and estimate of the number of small entities to which the rule will apply, (3) what is the projected reporting, record

keeping, and other compliance requirements of the rule, (4) what are the relevant Federal rules which may duplicate, overlap or conflict with the proposed rule, and (5) what alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

(1) What Is the Need for and Objective of the Rule?

A separate size standard for the Forest Fire Suppression and Fuels Management industry more appropriately defines the size of businesses in this industry activity that SBA believes should be eligible for Federal small business assistance programs. The significant increase in Federal funding and the Federal Government's increased use of contractors to perform these services have caused small businesses to grow beyond the current size standard. Other small businesses are likely to outgrow the current size standard within the next two years. A review of the latest available industry data and information on recent trends in the Forestry industry provided by businesses and associations in the Forestry industries, USFS, and BLM indicate that these growing businesses are relatively small and should continue to be eligible for small business programs. SBA welcomes additional data and information on the Forest Fire Suppression and Fuels Management Services industry that may be useful in assessing the size standard and the impact of the proposed size standard on small businesses.

(2) What Is SBA's Description and Estimate of the Number of Small Entities to Which the Rule Will Apply?

SBA estimates that 200 to 300 businesses are engaged in Forest Fire Suppression and Fuels Management activities. These businesses come from the Forestry and Logging Subsector, and Support Activities for Forestry (NAICS codes 113110, 113210, 113310, and 115310). As this is an emerging industry, SBA developed its estimate from discussions with, and information provided by the USFS, BLM, and industry groups. From these discussions, SBA estimates approximately 50% of these firms are small businesses, many of which may be currently at or just below the $6.0 million threshold. If this rule were adopted, 50 to 60 additional businesses would be considered small as a result of this rule. Although this may not represent a substantial number of small businesses, SBA is preparing an IRFA to ensure that the impact on small businesses of higher size standards are known and being considered. These businesses would be eligible to seek available SBA assistance provided that they meet other program requirements.

Based on the relative size of these firms and SBA's knowledge of contracting in these areas, SBA estimates that small business coverage could increase by 12 percent of total revenues in this activity. These revenue estimates were calculated from the size distributions of the parent industries in which Forest Fire Suppression and Fuels Management service firms are presently classified.

In lieu of survey data on Forest Fire Suppression and Fuels Management businesses, SBA welcomes additional data and comments on the impact of the proposed size standard on small businesses in this sub-industry.

(3) What Are the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule and an Estimate of the Classes of Small Entities That Will Be Subject to the Requirements?

A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(4) What Are the Relevant Federal Rules Which May Duplicate, Overlap or Conflict With the Proposed Rule?

This proposed rule overlaps other Federal rules that use SBA's size standards to define a small business. Under section 632(a)(2)(C) of the Small Business Act, unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988–57991, dated November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

(5) What Alternatives Will Allow the Agency To Accomplish Its Regulatory Objectives While Minimizing the Impact on Small Entities?

As discussed in the preamble, SBA considered several alternative size standards and their implications on small businesses. First, SBA considered retaining a single size standard for the Support Activities for the Forestry industry. In researching firms engaged in Forest Fire Suppression and Fuels Management Services, SBA concluded that no single size standard could adequately define small business in the whole industry. The size standard would be either too low for Forest Fire Suppression and Fuels Management Services or too high for other industry activities, such as forestry consulting, timber valuation, and timber pest control. Establishing two size standards for this industry would enable SBA to determine the most appropriate size standard for disparate segments of the industry.

SBA considered maintaining the $6 million size standard for Forest Fire Suppression and Fuels Management, however as discussed in the preamble, circumstances strongly reinforce the industry structure factors in arguing for a size standard higher than $6 million.

For the Forest Fire Suppression and Fuels Management sub-industry, SBA assessed the higher size standards of $27.5 million and 500 employees, as requested by several organizations. Both size standards were viewed as too high for these activities and the types of firms performing Forest Fire Suppression and Fuels Management services. Almost all firms currently providing these services to USFS and BLM are significantly smaller than $27.5 million and 500 employees. Adopting size standards at either of these levels may result in Federal contracting being concentrated among a few firms, and therefore, diminish opportunities for currently defined small businesses.

SBA also considered establishing a $12 million size standard for this sub-industry, and believed that adopting this size standard, similar to that of Excavation Contractors, is too low because of the additional mandated training investments for fire crews and fire crew chiefs. SBA found that firms performing Forest Fire Suppression and Fuels Management services have rapidly increasing revenues due to these requirements that in many cases will soon force them to exceed the $12 million size standard.

By establishing the size standard at $15 million, SBA will minimize the impact on the small businesses in this emerging industry. Increased Federal funding and requirements have caused many firms to outgrow the $6 million size standard, thus reducing small business competition for these services. On the other hand, if SBA established the size standard at $28.5 million or 500 employees, almost all firms in this sub-industry would be considered small businesses.

SBA welcomes comments on other alternatives that minimize the impact of this rule on small businesses and achieve the objectives of this rule. Those comments should describe the alternative and explain why it is preferable to the proposed rule.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business. Loan programs—business, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend part 121 of title 13 of the Code of Federal Regulations as follows:

PART 121—[AMENDED]

1. The authority citation of part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c) and 662(5) and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. In § 121.201, amend the table ''Small Business Size Standards by NAICS Industry'' as follows:

a. In the middle column, revise the heading ''Description (N.E.C.=Not Elsewhere Classified)'' to read ''NAICS industry descriptions'';

b. Under the heading ''Subsector 115—Support Activities for Agriculture and Forestry,'' revise the entry for 115310; and

c. Add footnote 16 to the end of the table.

The revisions and additions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS industry descriptions	Size standards in number of employees or million of dollars
*	* * * * * *	
	Subsector 115—Support Activities for Agriculture and Forestry	
*	* * * * * *	
115310	Support Activities for Forestry	$6.0
EXCEPT	Forest Fire Suppression and Fuels Management [16]	15.0
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Footnotes

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[16] *NAICS code 115310 (support Activities for Forestry)*—Forest Fire Suppression and Fuels Management, a component of Support Activities for Forestry, includes establishments which provide services to fight forest fires. These firms usually have fire-fighting crews and equipment. This component also includes Fuels Management firms that provide services to clear land of hazardous materials that would fuel forest fires. The treatments used by these firms may include prescribed fire, mechanical removal, establishing fuel breaks, thinning, pruning, and piling.

Dated: April 29, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–18112 Filed 7–18–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–35–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS332C, AS332L, AS332L1, SA330F, SA330G, and SA330J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (ECF) Model AS332C, AS332L, AS332L1, SA330F, SA330G, and SA330J helicopters. This proposal would require inspecting the tail rotor pitch change rod (change rod) bearing and replacing the bearing if the bearing does not meet the specified tolerance. Also, this proposal would require inspecting the bearing for spalling, friction, and grinding and removing any unairworthy bearing. This proposal is prompted by the seizure of a bearing on an ECF Model SA330 helicopter. The actions specified by this proposed AD are intended to prevent bearing wear, bearing seizure of the change rod, loss of tail rotor effectiveness, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 17, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–35–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–35–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–35–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model AS332C, AS332C1, AS332L, AS332L1, SA330F, SA330G, and SA330J helicopters. The DGAC advises that the pitch change rod bearing seized on a Model SA330 helicopter.

ECF has issued Eurocopter France Alert Service Bulletin (ASB) Nos. 05.81, Revision 2, and 05.00.29, Revision 3, both dated January 18, 2001, which specify modifying the operational and bearing check procedure for the change rod equipped with bearing, part number (P/N) 330A33–9903–20. The DGAC classified ASB No. 05.00.29, Revision 3, dated January 18, 2001, as mandatory and issued AD No. 1990–230–041(A) R4, dated February 21, 2001, to ensure the continued airworthiness of the ECF Model AS332 helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the proposed AD would require the following inspections initially, repetitively, and before installing any tail rotor gearbox that has been previously installed on another helicopter and has not been inspected:

- Inspect the tail rotor spider for end play. Remove the change rod bearing if the tail rotor spider is not within allowable tolerances.
- Inspect each bearing for spalling, friction, grinding, damaged bearing sealing flanges, overheating at the bearing inner and outer races and the flanges, deposits of corrosion, and shearing or wear marks on the lockwasher, and remove any unairworthy bearing.
- If a bearing is removed, before replacing the bearing, inspect the change rod for visible wear marks or scoring on the bearing journal circumference. If wear marks or circular scoring is found, repair or replace the bearing housing.

The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours to inspect and replace a bearing, and that the average labor rate is $60 per work hour. Required replacement parts would cost approximately $120. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1080, assuming one bearing is replaced on each helicopter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. 2001–SW–35–AD.

Applicability: Model AS332C, AS332L, AS332L1, SA330F, SA330G, and SA330J helicopters with a tail rotor pitch change rod (rod) and a bearing, part number 330A33–9903–20, installed, certificated in any category.

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

Compliance: Within 20 hours time-in-service (TIS) or 1 month, whichever occurs first, or before installing any tail rotor gearbox previously installed on another helicopter and not inspected within the previous 250 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 250 hours TIS or 18 months, whichever occurs first.

To prevent bearing wear, bearing seizure of the change rod, loss of tail rotor effectiveness and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the axial end play of the tail rotor pitch change spider assembly in accordance with the Accomplishment Instructions, paragraph 2.B.1. of Eurocopter France (ECF) Alert Service Bulletin No. 05.81, Revision 2, dated January 18, 2001 (ASB 330) for the ECF Model 330 helicopters or Eurocopter France Alert Service Bulletin No. 05.00.29, Revision 3, dated January 18, 2001 (ASB 332) for the Model 332 helicopters. If the axial end play is not within allowable tolerances, remove the rod bearing from service.

(b) Inspect each bearing for spalling, friction, grinding, damaged bearing sealing flanges, overheating at the bearing inner and outer races and the flanges, deposits of corrosion, and shearing or wear marks on the lockwasher in accordance with the Accomplishment Instructions, paragraph 2.B.2., of ASB 330 or ASB332, as applicable. Remove from service any unairworthy bearing.

(c) If a bearing is removed from service, before replacing the bearing with an airworthy bearing:

(1) Inspect the change rod for visible wear marks or scoring on the bearing journal circumference. If marks or scoring is found, remove the change rod from service.

(2) Inspect the bearing housing for visible wear marks or circular scoring. If wear marks or circular scoring is found, repair or replace the bearing housing in accordance with the Accomplishment Instructions, paragraph 2.B.3., of ASB 330 or ASB 332, as applicable.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(e) Special flight permits will not be issued.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 1990–230–041(A) R4, dated February 21, 2001.

Issued in Fort Worth, Texas, on July 5, 2002.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–18196 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–93–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes Equipped With General Electric Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to all Boeing Model 777–200 series airplanes equipped with General Electric engines. That action would have required installation of a high-temperature silicone foam seal on the aft fairing of the strut. Since issuance of the NPRM, the Federal Aviation Administration (FAA) has received new information that indicates that the unsafe condition would not be prevented by the proposed action. Subsequently, the FAA has issued new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed by the NPRM. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* John Vann, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1024; fax (425) 227–1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4241, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *judy.golder@faa.gov*. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to all Boeing Model 777–200 series airplanes equipped with General Electric engines, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on October 30, 2001 (66 FR 54727). The proposed rule would have required installation of a high-temperature silicone foam seal on the aft fairing of the strut. That action was prompted by reports indicating that, during routine inspections of the aft fairing of the strut, evidence of an elevated temperature in the interior cavity of the aft fairing was found on several Boeing Model 777–200 series airplanes equipped with General Electric engines. The proposed actions were intended to prevent primary engine exhaust from entering the aft fairing of the strut, elevating the temperature in the aft fairing of the strut, and creating a potential source of ignition, which could lead to an uncontrolled fire in the aft fairing of the strut. Such a fire would expose the wing fuel tank to high-temperature gasses and flames and result in a potential ignition source for the fuel tank, and reduced structural integrity of the wing.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, one operator reported significant heat damage to the forward end of the diagonal brace on an airplane that had the high-temperature silicone foam seal installed. Investigation revealed that the foam seal was not a sufficient barrier to the heat of the primary engine exhaust. Thus the exhaust entered the aft fairing of the strut through a gap in the heat shield, elevating the temperature and resulting in heat damage to the primary fire seal, heat shield seal, and secondary fluid seal. The damaged seals allowed the exhaust to pass into the aft fairing cavity causing heat damage to the diagonal brace assembly.

As a result of this incident, the FAA has determined that the unsafe condition would not be prevented by the installation of the high temperature silicone foam seal alone, which the NPRM proposed to require.

Other Relevant Rulemaking

On March 29, 2002, the FAA issued AD 2002–07–07, amendment 39–12701 (67 FR 16991, April 9, 2002), applicable to certain Boeing Model 777–200 series airplanes equipped with General Electric GE90 series engines. That AD requires repetitive inspections of the diagonal brace and forward seals of the aft fairing of the strut to find discrepancies, and corrective actions, if necessary. The actions required by that AD are intended to prevent primary engine exhaust from entering the aft fairing of the strut and elevating the temperature, which could lead to heat damage of the seals and diagonal brace. Such damage could result in cracking and fracture of the forward attachment point of the diagonal brace, loss of the diagonal brace load path, and consequent separation of the strut and engine from the airplane.

FAA's Conclusions

In AD 2002–07–07, the FAA stated that it was considering withdrawing NPRM 2001–NM–93–AD. Upon further consideration, the FAA has determined that the unsafe condition addressed by that NPRM would NOT be prevented by the actions that would be required by that proposed AD, but WOULD be prevented by the actions required by AD 2002–07–07. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another action in the future, nor does it commit the

agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 2001–NM–93–AD, published in the **Federal Register** on October 30, 2001 (66 FR 54727), is withdrawn.

Issued in Renton, Washington, on July 11, 2002.

Lirio Liu-Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–18200 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–104–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000, SAAB SF340A, and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Saab Model SAAB 2000, SAAB SF340A, and SAAB 340B series airplanes. This proposal would require replacing the main pitot static tube on each side of the airplane with a new improved pitot static tube, and installing a gasket between the tube and the airplane structure. This action is necessary to prevent ice from blocking the pitot system, due to the pitot tube not having enough heating capacity to stay above freezing temperature, which could result in erroneous airspeed indications This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–104–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–104–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–104–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–104–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on all Saab Model SAAB 2000, SAAB SF340A, and SAAB 340B series airplanes. The LFV advises that operators have reported a number of events involving incorrect airspeed indications. A typical scenario is that, during descent from cruise altitude, one or more airspeed indicators incorrectly show gradually decreasing airspeed. At lower altitudes, the correct airspeed is again displayed, and on the ground, no faults can be found. System analysis indicates that, in the scenario described above, a freezing temperature is present in the pitot pressure lines inside the pitot static tube. This condition, if not corrected, could result in ice blocking the pitot system, due to the pitot tube not having enough heating capacity to stay above freezing temperature, which could result in erroneous airspeed indications.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000–34–060 (for Model SAAB 2000 series airplanes) and Service Bulletin 340–34–145 (for Model SAAB SF340A and SAAB 340B series airplanes), both dated October 1, 2001, which describe procedures for replacing the main pitot static tube on each side of the airplane with a new improved pitot static tube with increased heating. The service bulletins also describe procedures for installing a new gasket between the tube

and the airplane structure that will increase thermal insulation. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The LFV classified these service bulletins as mandatory and issued Swedish airworthiness directive 1–166 (for all Model SAAB 2000 series airplanes), dated October 1, 2001; and Swedish airworthiness directive 1–167 (for all Model SAAB SF340A and SAAB 340B series airplanes), dated October 1, 2001; in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 312 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $13,400 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $4,330,560, or $13,880 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Saab Aircraft AB: Docket 2002–NM–104–AD.

Applicability: All Model SAAB 2000, SAAB SF340A, and SAAB 340B series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent ice from blocking the pitot system, due to the pitot tube not having enough heating capacity to stay above freezing temperature, which could result in erroneous airspeed indications, accomplish the following:

Replacement

(a) Within 12 months from the effective date of this AD, replace the main pitot static tube on each side of the airplane with a new improved pitot static tube, and install a gasket between the tube and the airplane structure; per the Accomplishment Instructions of Saab Service Bulletin 340–34–145 (for Model 340A and 340B series airplanes) or Saab Service Bulletin 2000–34–060 (for Model 2000 series airplanes), both dated October 1, 2001; as applicable.

Spares

(b) As of the effective date of this AD, no person shall install any static pitot tube having part number 856ML1 or 856ML2, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Swedish airworthiness directives 1–166 and 1–167, both dated October 1, 2001.

Issued in Renton, Washington, on July 11, 2002.

Lirio Liu-Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–18213 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA–222A]

RIN 1117–AA64

Chemical Mixtures Containing gamma-Butyrolactone

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is soliciting information on chemical mixtures that contain the List I chemical gamma-butyrolactone (GBL). Specifically, DEA is interested in learning what products contain GBL, and what concentrations of GBL and other chemicals are used in their formulations. DEA is also interested in how chemical mixtures containing GBL are packaged, distributed, used, and their availability at the retail level. DEA is seeking this information to help determine whether there are chemical mixtures (as defined in 21 U.S.C. 804(40)) containing GBL which should be exempt from the regulations governing listed chemicals, pursuant to 21 U.S.C. 802(39)(A)(v). Exempt chemical mixtures are those formulations that contain any listed chemical, but are not subject to the regulatory controls of the Controlled Substances Act (CSA) that pertain to listed chemicals.

On September 16, 1998, DEA published a notice of proposed rulemaking in the **Federal Register** (63 FR 49506) that proposed regulations to define exempt chemical mixtures. Because GBL was not then a listed chemical, regulations defining potential exempt chemical mixtures were not proposed. The information being requested in this advance notice of proposed rulemakig (ANPRM) will be used to help propose regulations to define what chemical mixtures containing GBL may be exempt.

DATES: Written comments must be submitted on or before September 17, 2002.

ADDRESSES: Comments should be submitted to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION:

What Is GBL and How Is It Used?

GBL is gamma-butyrolactone, an important industrial chemical. It is also a List I chemical used in the illicit production of gamma-hydroxybutric acid (GHB), a Schedule I controlled substance (21 U.S.C. 812(c)). GBL is produced domestically in tens of thousands of tons per year. The legitimate manufacturers of GBL consume most of it for conversion into other industrial chemicals. The remaining amount is used in other industries with application to agriculture, electronics, textiles, coatings, and various other areas. Pure GBL has no household uses and is not available for sale at the retail level. However, it may be a component in some products sold at the retail level such as paint strippers.

How and Why Is GBL Regulated by DEA?

GBL has been identified as the principal precursor used in the clandestine manufacture of the Schedule I controlled substance GHB. Public Law 106–172, the ''Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999,'' amended 21 U.S.C. 802(34) be designating GBL as a List I chemical. Since February 18, 2000, GBL has been subject to CSA regulatory controls. The CSA requires that all handlers of GBL must register as set forth in Title 21, Code of Federal Regulations (CFR), part 1309 and keep records and make reports as set forth in 21 CFR part 1310. Currently, only, GBL, but not its chemical mixtures, is subject to these controls. Until regulations which delineate criteria and procedures for exempting specific GBL-containing chemical mixtures are finalized, according to 21 U.S.C. 802(39)(4)(v), DEA has treated GBL-containing chemical mixtures as being exempt from the chemical regulatory requirements of the CSA.

Why Is DEA Interested in Learning About Chemical Mixtures Containing GBL?

DEA is in the process of establishing regulations that define which chemical mixtures are exempt from CSA regulatory controls. The CSA defines the term ''chemical mixture'' as ''a combination of two or more chemical substances, at least one of which is not a List I chemical or a List II chemical, except that such term does not include any combination of a List I chemical or a List II chemical with another chemical that is present solely as an impurity.'' The CSA further allows exemption of chemical mixtures ''based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.''

A notice of proposed rule making (NPRM) regarding the exemption of chemical mixtures was published in the **Federal Register** on September 16, 1998 (63 FR 49506). The NPRM proposed regulations to identify if a chemical mixture is automatically exempt from CSA regulatory controls. When the NPRM was published, GBL was not a regulated chemical. Therefore, regulations addressing the exemption of chemical mixtures containing GBL were not proposed.

The NPRM proposed a concentration limit for each listed chemical. If a listed chemical is found in a chemical mixture at or below the concentration limit, the mixture is exempt. Also proposed were categories of exempt chemical mixtures and an application process. The application process is a means to exempt chemical mixtures not automatically exempted by regulation. These approaches were well received by the regulated industry and may be proposed to identify exempt chemical mixtures containing GBL.

What Is DEA Requesting in This ANPRM?

To propose regulations in line with the above approaches, DEA is interested in learning about formulations that contain GBL. While some formulations containing GBL have been identified, DEA is not aware of the entire scope of mixtures containing GBL, including how they are used, traded, and their chemical composition. DEA invites all interested persons to provide the Administration with any information on chemical mixtures containing GBL. Both quantitative and qualitative information is requested. If the concentration of a chemical(s) varies in a formulation, DEA

is interested in the range of concentrations. Also of interest is how the mixtures are packaged, distributed, type of application, and the target market (e.g., type of industry, availability at retail, Internet sales). This information will be used to propose regulations to exempt those chemical mixtures that, according to 21 U.S.C. 802(39)(A)(v), are ''formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.''

Such information may be submitted to the address listed above and is requested by September 17, 2002. Information designated as confidential or proprietary will be treated accordingly. The release of confidential business information that is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), is governed by section 310(c) of the CSA (21 U.S.C. 830(c)) and the Department of Justice procedures set forth in 28 CFR 16.7.

Dated: July 1, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 02–17903 Filed 7–18–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

RIN 1512–AC62

[Re: Notice No. 947]

Establishment of the Oak Knoll District Viticultural Area (2002R–046P); Correction

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of July 9, 2002. In Notice No. 947, Establishment of the Oak Knoll District Viticultural Area, the address listed for submitting comments to the Bureau of Alcohol, Tobacco and Firearms by e-mail is incorrect. This notice contains the correct address for submitting comments by e-mail.

DATES: Comments on Notice No. 947 must be received by September 9, 2002.

FOR FURTHER INFORMATION CONTACT: Joanne Brady, Specialist, Regulations Division (Philadelphia, PA), Bureau of Alcohol, Tobacco and Firearms, The Curtis Center, Suite 875, Independence Square West, Philadelphia, PA 19106; telephone 215–597–5288 or e-mail *JCBrady@phila.atf.treas.gov.*

Correction

In proposed rule FR Doc. 02–16972, beginning on page 45437 in the issue of July 9, 2002, make the following correction. On page 45438, in the third column, under the *Submitting Comments* heading, correct the fourth paragraph to read as follows:

''*By e-mail*: Comments may be submitted by e-mail to *nprm@atfhq.atf.treas.gov.* E-mail comments must:

(1) Contain your name, mailing address, and e-mail address;

(2) Reference this notice number; and

(3) Be legible when printed.

We will not acknowledge the receipt of e-mail. We will treat comments submitted by e-mail as originals.''

Signed: July 12, 2002.

William H. Foster,

Deputy Chief, Regulations Division.

[FR Doc. 02–18321 Filed 7–18–02; 8:45 am]

BILLING CODE 4810–31–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–45 and 102–38

[FPMR Amendment H–]

RIN 3090–AH10

Sale of Personal Property

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by revising coverage on the sale of personal property and moving it into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Your comments must reach us by August 19, 2002, to be considered in the formulation of a final rule.

ADDRESSES: Written comments should be submitted to: Rodney Lantier, Regulatory Secretariat (MVP), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 20405.

Address e-mail comments to: *RIN.3090-AH10@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Holcombe, Director, Personal Property Management Policy Division (MTP), 202–501–3828.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule updates, streamlines, and clarifies FPMR part 101–45 and moves the part into the Federal Management Regulation (FMR). The proposed rule is written in a plain language question and answer format. This style uses an active voice, shorter sentences, and pronouns. A question and its answer combine to establish a rule. The employee and the agency must follow the language contained in both the question and its answer.

B. Executive Order 12866

GSA has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for notice and comment; therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–45 and 102–38.

Government property management, Surplus Government property.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–45 is revised to read as follows:

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Authority: 40 U.S.C. 484 and 486(c).

§ 101–45.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on sale of personal property previously contained in this part, *see* FMR part 38 (41 CFR part 102–38).

CHAPTER 102—[AMENDED]

2. Part 102–38 is added to subchapter B of chapter 102 to read as follows:

PART 102–38—SALE OF PERSONAL PROPERTY

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102–38.325 What are the requirements pertaining to antitrust laws?

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Subpart G—Sales to State and Local Governments

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102–38.345 Do we have to withdraw personal property advertised for public sale if a State Agency for Surplus Property (SASP) wants to buy it?
102–38.350 Are State and local governments subject to the same payment requirements as public buyers?
102–38.355 Do the regulations of this part apply to SASPs?

Authority: 40 U.S.C. 484 and 40 U.S.C. 486(c).

Subpart A—General Provisions

§ 102–38.5 What does this part cover?

This part prescribes the policies governing the sale of Federal personal property, including:

(a) Surplus personal property that has completed all required Federal and/or donation screening; and

(b) Personal property to be sold under the exchange/sale authority.

Note to § 102–38.5: You must follow additional guidelines in part 101–42 of this title for the sale of personal property that has special handling requirements or property containing hazardous materials, such as firearms, munitions list items (as defined in § 102–36.40 of this chapter), animals, medical devices, all terrain vehicles, precious metals, etc. Additional requirements for the sale of aircraft and aircraft parts are provided in part 101–37 of this title.

§ 102–38.10 What is the governing authority for this part?

Sections 203 and 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484 and 486(c)), as amended (Property Act), provide the authority for the regulations in this part governing the sale of Federal personal property.

§ 102–38.15 Who must comply with these sales provisions?

All agencies in the executive, legislative, and judicial branches of the Government must comply with these sales provisions, except the Senate, House of Representatives, and activities under the direction of the Architect of the Capitol.

§ 102–38.20 Must we follow the regulations of this part when selling all personal property?

Generally, yes, you must follow the regulations of this part when selling all personal property, however:

(a) Materials acquired for the national stockpile or supplemental stockpile, or materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093) are excepted from this part;

(b) The Maritime Administration, Department of Transportation, has jurisdiction over the disposal of vessels of 1,500 gross tons or more and determined by the Secretary to be merchant vessels or capable of conversion to merchant use; and

(c) Sales made by the Secretary of Defense pursuant to 10 U.S.C. 2576 (Sale of Surplus Military Equipment to State and Local Law Enforcement and Firefighting Agencies) are exempt from these provisions.

§ 102–38.25 To whom do ''we'', ''you'', and their variants refer?

Unless otherwise indicated, use of pronouns ''we'', ''you'', and their variants throughout this part refer to the holding agency responsible for the sale of the property.

§ 102–38.30 How do we request a deviation from the provisions of this part?

Refer to § 102–2.60 of this chapter for information on how to obtain a deviation from this part.

Definitions

§ 102–38.35 What definitions apply to this part?

The following definitions apply to this part:

Bid means a response to an offer to sell that, if accepted, would bind the bidder to the terms and conditions of the contract (including the bid price).

Bidder means any entity that is responding to or has responded to an offer to sell.

Estimated fair market value means the selling agency's best estimate of what the property would be sold for if offered for public sale.

Identical bids means bids for the same item of property having the same total price.

Personal property means any property, except real property. For purposes of this part, the term excludes records of the Federal Government, and naval vessels of the following categories:

(1) Battleships;

(2) Cruisers;

(3) Aircraft carriers;

(4) Destroyers; and

(5) Submarines.

State Agency for Surplus Property (SASP) means the agency designated under State law to receive Federal surplus personal property for distribution to eligible donees within the State as provided for in subsection 203(j) of the Property Act (40 U.S.C. 484(j)).

State or local government means a State, territory, possession, political subdivision thereof, or tax-supported agency therein.

Responsibilities

§ 102–38.40 Who may sell personal property?

You may sell personal property as the holding agency or on behalf of another agency when so requested, or have GSA, a contractor, or another Federal agency conduct the sale for you, provided that only authorized Federal officials approve the sale.

§ 102–38.45 What are our responsibilities in selling personal property?

Your responsibilities in selling personal property are to:

(a) Ensure the sale complies with the provisions of the Property Act and regulations of this part, and any other applicable laws;

(b) Issue internal guidance to promote uniformity of sales procedures;

(c) Assure that officials designated to conduct and finalize sales are adequately trained;

(d) Be accountable for the care and handling of the personal property prior to its removal by the buyer; and

(e) Adjust your property and financial records to reflect the final disposition.

§ 102–38.50 What must we do when we suspect non-compliance with the provisions of this part?

If you suspect non-compliance with the provisions of this part, you must:

(a) Refer any violations of the regulations in this part, or fraud, bribery or criminal collusion against the Government to the Inspector General of your agency and/or the Attorney General, Department of Justice, Washington, DC 20530, for further investigation. You must cooperate with and provide evidence concerning the suspected violation to the investigating agency assuming jurisdiction of the matter; and

(b) Submit to GSA, Property Management Division (FBP), Washington, DC, 20406, a report of any compliance investigations concerning violations of these provisions. The report must contain information concerning the noncompliance, including the corrective action taken or contemplated, and, for cases referred to the Department of Justice, a copy of the transmittal letter. A copy of each report must be submitted also to GSA, Personal Property Management Policy Division (MTP), Washington, DC 20405.

§ 102–38.55 What must we do when selling personal property?

When selling personal property, you must ensure that:

(a) All sales are made after publicly advertising for bids, except as provided for negotiated sales in §§ 102–38.100 through 102–38.125; and

(b) Advertising for bids must permit full and free competition consistent with the value and nature of the property involved.

§ 102–38.60 Who is responsible for the costs of care and handling of the personal property before it is sold?

You are responsible for the care and handling costs of the personal property until it is removed by the buyer or the

buyer's designee. When specified in the terms and conditions of sale, you may charge costs for storage when the buyer is delinquent in removing the property.

§ 102–38.65 What if we are notified of a Federal requirement for surplus personal property before the sale is complete?

Federal agencies have first claim to excess or surplus personal property reported to GSA. When a need is expressed by a Federal agency, you must make the property available for transfer to the maximum extent practicable and prior to transfer of title to the property.

§ 102–38.70 May we abandon, destroy, or donate personal property either prior to or after trying to sell it?

(a) Yes, you may abandon, destroy, or donate personal property either prior to or after trying to sell it, but only when you have made a written determination that:

(1) The personal property has no commercial value; or

(2) The estimated cost of continued care and handling would exceed the estimated sales proceeds.

(b) In addition to the provisions in paragraph (a) of this section, see the regulations at §§ 102–36.305 through 102–36.330 of this chapter that are applicable to the abandonment, destruction, or donation of personal property in general, and excess personal property in particular.

Subpart B—Sales Process

Methods of Sale

§ 102–38.75 How may we sell personal property?

(a) You may sell personal property upon such terms and conditions as the Administrator of General Services deems proper to promote fairness, openness, and timeliness. In selling personal property, you must document the required terms and conditions of each sale, including, but not limited to, the following terms and conditions, as applicable:

(1) Inspection;

(2) Condition and location of property;

(3) Eligibility of bidders;

(4) Consideration of bids;

(5) Bid deposits and payments;

(6) Submission of bids;

(7) Bid price determination;

(8) Title;

(9) Delivery, loading, and removal of property;

(10) Default, returns, or refunds;

(11) Modifications, withdrawals, or late bids;

(12) Requirements to comply with applicable laws and regulations;

(13) Certificate of independent price determinations;

(14) Covenant against contingent fees;

(15) Limitation on Government's liability; and

(16) Award of contract.

(b) When conducting and completing a sale through electronic media, the required terms and conditions must be included in your electronic sales documentation.

§ 102–38.80 Which method of sale should we use?

(a) You may use any method of sale provided the sale is publicly advertised and the personal property is sold with full and open competition. Exceptions to the requirement for competitive bids for negotiated sales (including fixed price sales) are contained in §§ 102–38.100 through 102-38.125. You must select the method of sale that will bring maximum return at minimum cost, considering factors such as:

(1) Type and quantity of property;

(2) Location of property;

(3) Potential market;

(4) Cost to prepare and conduct the sale;

(5) Available facilities; and

(6) Sales experience of the selling activity.

(b) Methods of sale may include sealed bid sales, spot bid sales, auctions, or negotiated sales and may be conducted at a physical location or through any electronic media that is publicly accessible.

Competitive Sales

§ 102–38.85 What is a sealed bid sale?

A sealed bid sale is a sale where bid prices are kept confidential until bid opening. Bids are submitted either electronically or in writing according to formats specified by the selling agency, and all bids are held for public disclosure at a designated time and place.

§ 102–38.90 What is a spot bid sale?

A spot bid sale is a sale where immediately following the offering of the item or lot of property, bids are examined, and awards are made or bids rejected on the spot. Bids are either submitted electronically or in writing according to formats specified by the selling agency, and must not be disclosed prior to announcement of award.

§ 102–38.95 What is an auction?

An auction is a sale where the bid amounts of different bidders are disclosed as they are submitted, providing bidders the option to increase their bids if they choose. Bids are submitted electronically and/or by those physically present at the sale. Normally, the bidder with the highest bid at the close of each bidding process is awarded the property. The Government reserves the right to reject any or all bids.

Negotiated Sales

§ 102–38.100 What is a negotiated sale?

A negotiated sale is a sale where the selling price is arrived at between the seller and the buyer, subject to obtaining such competition as is feasible under the circumstances.

§ 102–38.105 Under what conditions may we negotiate sales of personal property?

You may negotiate sales of personal property when:

(a) The personal property has an estimated fair market value of less than $15,000;

(b) The disposal will be to a State, territory, possession, political subdivision thereof, or tax-supported agency therein, and that the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;

(c) Bid prices after advertising are not reasonable and re-advertising would serve no useful purpose;

(d) Public exigency does not permit any delay such as that caused by the time required to advertise a sale;

(e) The sale promotes public health, safety, or national security;

(f) The sale is in the public interest under a national emergency declared by the President or the Congress. This authority may be used only with specific lot(s) of property or for categories determined by the Administrator of General Services for a designated period but not in excess of three months;

(g) Selling the property competitively would have an adverse impact on the national economy, provided that the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation, e.g., sale of large quantities of an agricultural product that impact domestic markets; or

(h) Otherwise authorized by the Federal Property and Administrative Services Act of 1949, as amended, or other law.

§ 102–38.110 Who approves our determinations to conduct negotiated sales?

The head of your agency (or his/her designee) must approve all negotiated sales of personal property.

§ 102–38.115 What are the specific reporting requirements for negotiated sales?

For negotiated sales of personal property, you must:

(a) In accordance with section 203(e)(6) of the Property Act (40 U.S.C. 484(e)(6)), and in advance of the sale, submit to the oversight committees for GSA in the Senate and House, explanatory statements for each sale by negotiation of any personal property with an estimated fair market value in excess of $15,000. You must maintain copies of the explanatory statements in your disposal files. No statement is needed for negotiated sales at fixed price or for any sale made without advertising when authorized by law other than section 203(e) of the Property Act; and

(b) Report annually to GSA, Personal Property Management Policy Division (MTP), Washington, DC, 20405, within 60 calendar days after the close of each fiscal year, a listing and description of all negotiated sales of personal property with an estimated fair market value in excess of $5,000. You may submit the report electronically or manually (*see* § 102–38.330).

§ 102–38.120 When may we sell personal property at fixed prices (fixed price sale)?

You may sell personal property at fixed prices (fixed price sale) when the head of your agency determines in writing that such sale serves the best interests of the Government. You must publicize such sale to the extent consistent with the value and nature of the property involved, and the prices established must reflect the estimated fair market value of the property. Property is sold on a first-come, first-served basis. You may also establish additional terms and conditions that must be met by the successful purchaser.

§ 102–38.125 May we sell personal property at fixed prices to State agencies?

Yes, before offering to the public, you may offer the property at fixed prices (through the State Agencies for Surplus Property) to any States, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, which have expressed an interest in obtaining the property. For additional information, see Subpart G of this part.

Advertising

§ 102–38.130 Must we publicly advertise sales of Federal personal property?

Yes, you must provide public notice of your sale of personal property to permit full and open competition.

§ 102–38.135 What constitutes a public advertisement?

Announcement of the sale using any media that reaches the public and is appropriate to the type and value of personal property to be sold is considered public advertising. You may also distribute mailings or flyers of your offer to sell to prospective purchasers on mailing lists. Public notice should be made far enough in advance of the sale to ensure adequate notice, and to target your advertising efforts toward the market that will provide the best return at the lowest cost.

§ 102–38.140 What must we include in the public notice on sale of personal property?

In the public notice, you must provide information necessary for potential buyers to participate in the sale, such as:

(a) Date, time and location of sale;

(b) General categories of property being offered for sale;

(c) Inspection period;

(d) Method of sale (*i.e.,* spot bid, sealed bid, auction);

(e) Selling agency; and

(f) Who to contact for additional information.

Pre-Sale Activities

§ 102–38.145 Must we allow for inspection of the personal property to be sold?

Yes, you must allow for an electronic or physical inspection of the personal property to be sold. You must allow prospective bidders sufficient time for inspection.

§ 102–38.150 How long is the inspection period?

The length of the inspection period allowed depends upon whether the inspection is done electronically or physically. You should consider such factors as the circumstances of sale, volume of property, location of the property, and accessibility of the sales facility. Normally, you should provide at least 7 calendar days to ensure potential buyers have the opportunity to perform needed inspection.

Offer To Sell

§ 102–38.155 What is an offer to sell?

An offer to sell is a notice listing the terms and conditions for bidding on an upcoming sale of personal property, where prospective purchasers are advised of the requirements for a responsive bid and the contractual obligations once a bid is awarded.

§ 102–38.160 What must be included in the offer to sell?

The offer to sell must include:

(a) Sale date and time;

(b) Method of sale;

(c) Description of property being offered for sale;

(d) Selling agency;

(e) Location of property;

(f) Time and place for receipt of bids;

(g) Acceptable forms of bid deposits and payments; and

(h) Terms and conditions of sale, including any specific restrictions and limitations.

§ 102–38.165 Are the terms and conditions in the offer to sell binding?

Yes, the terms and conditions in the offer to sell are normally incorporated into the sales contract, and therefore binding upon both the buyer and the seller once a bid is awarded.

Subpart C—Bids

Buyer Eligibility

§ 102–38.170 May we sell Federal personal property to anyone?

Generally, you may sell Federal personal property to anyone. However, certain persons or entities are debarred or suspended from purchasing Federal property. You must not enter into a contract with such a person or entity unless your agency head or designee responsible for the disposal action determines that there is a compelling reason for such an action.

§ 102–38.175 How do we find out if a person or entity has been suspended or debarred from doing business with the Government?

Refer to the List of Parties Excluded from Federal Procurement and Nonprocurement Programs to ensure you do not solicit from or award contracts to these persons or entities. The list is available through subscription from the U.S. Government Printing Office, or electronically on the Internet at *http://epls.arnet.gov.* For policies, procedures, and requirements for debarring/suspending a person or entity from the purchase of Federal personal property, follow the procedures in the Federal Acquisition Regulation (FAR) subpart 9.4 (48 CFR part 9, subpart 9.4).

§ 102–38.180 May we sell Federal personal property to a Federal employee?

Yes, you may sell Federal personal property to any Federal employee whose agency does not prohibit their employees from purchasing such property. For purposes of this section, the term ''Federal employee'' also applies to an immediate member of the employee's household.

§ 102–38.185 May we sell Federal personal property to State or local governments?

Yes, you may sell Federal personal property to State or local governments. Additional guidelines on sale to State or local governments are contained in Subpart G of this part.

Acceptance of Bids

§ 102–38.190 What is considered a responsive bid?

A responsive bid is a bid that complies with the terms and conditions of the sales offering, and satisfies the requirements as to the method and timeliness of submission. Only responsive bids may be considered for award.

§ 102–38.195 Must bidders use authorized bid forms?

No, bidders do not have to use authorized bid forms; however if a bidder uses his/her own bid form to submit a bid, the bid may be considered only if:

(a) The bidder accepts all the terms and conditions of the offer to sell; and

(b) Award of the bid would result in a binding contract.

§ 102–38.200 Who may accept bids?

Authorized agency representatives may accept bids for your agency. These individuals should meet your agency's requirements for approval of Government contracts.

§ 102–38.205 Must we accept all bids?

No, the Government reserves the right to accept or reject any or all bids. You may reject any or all bids when such action is advantageous to the Government, or when it is in the public interest to do so.

§ 102–38.210 What happens when bids have been rejected?

You may re-offer items for which all bids have been rejected at the same sale, if possible, or another sale.

§ 102–38.215 When may we disclose the bid results to the public?

You may disclose bid results to the public after the sales award of any item or lot of property. On occasions when there is open bidding, usually at a spot bid sale or auction, all bids are disclosed as they are submitted. No information other than names will be disclosed regarding the bidder(s).

§ 102–38.220 What must we do when the highest bids received have the same bid amount?

When the highest bids received have the same bid amount, you must consider other factors of the sale (*e.g.,* timely removal of the property, terms of payment, *etc.*) that would make one offer more advantageous to the Government. However, if you are unable to make a determination based on available information, and the Government has an acceptable offer, you may re-offer the property for sale, or you may utilize random tiebreakers to avoid the expense of reselling the property.

§ 102–38.225 What are the additional requirements in the bid process?

All sales except fixed price sales must contain a certification of independent price determination. If there is suspicion of false certification or an indication of collusion, you must refer the matter to the Department of Justice.

Bid Deposits

§ 102–38.230 Is a bid deposit required to buy personal property?

No, a bid deposit is not required to buy personal property. However, should you require a bid deposit to protect the Government's interest, a deposit of 20 percent of the total amount of the bid is generally considered reasonable.

§ 102–38.235 What types of payment may we accept as bid deposits?

In addition to the acceptable types of payments in § 102–38.290, you may also accept a deposit bond. A deposit bond may be used in lieu of cash or other acceptable form of deposit when permitted by the offer to sell, such as the Standard Form (SF) 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property, SF 151, Deposit Bond—Annual, Sale of Government Personal Property, and SF 28, Affidavit of Individual Surety. For information on how to obtain these forms, see § 102–2.135 of this chapter.

§ 102–38.240 What happens to the deposit bond if the bidder defaults or wants to withdraw his/her bid?

(a) When a bid deposit is secured by a deposit bond and the bidder defaults, you must issue a notice of default to the bidder and the surety company.

(b) When a bid deposit is secured by a deposit bond and the bidder wants to withdraw his/her bid, then you should return the deposit bond to the bidder.

Late Bids

§ 102–38.245 Do we consider late bids for award?

Consider late bids for award only when the bids were delivered timely to the address specified and your agency caused the delay in delivering the bids to the official designated to accept the bids.

§ 102–38.250 How do we handle late bids that are not considered?

Late bids that are not considered must be returned to the bidder promptly. You must not disclose information contained in returned bids.

Modification or Withdrawal of Bids

§ 102–38.255 May we allow a bidder to modify or withdraw a bid?

(a) Yes, a bidder may modify or withdraw a bid prior to the start of the sale or the time set for the opening of the bids. After the start of the sale, or the time set for opening the bids, the bidder will not be allowed to withdraw his/her bid.

(b) You may consider late modifications to an otherwise successful bid at any time, but only when it makes the terms of the bid more favorable to the Government.

Mistakes in Bids

§ 102–38.260 Who makes the administrative determinations regarding mistakes in bids?

The administrative procedures for handling mistakes in bids are contained in FAR part 14, subpart 14.407, Mistakes in Bids (48 CFR part 14). Your agency head, or his/her designee, may delegate the authority to make administrative decisions regarding mistakes in bids to a central authority in your agency, who must not re-delegate this authority.

§ 102–38.265 Must we keep records on administrative determinations?

Yes, you must:

(a) Maintain records of all administrative determinations made, to include the pertinent facts and the action taken in each case. A copy of the determination must be attached to its corresponding contract; and

(b) Provide a signed copy of any related determination with the copy of the contract you file with the Comptroller General.

§ 102–38.270 May a bidder protest the determinations made on sales of personal property?

Yes, protests regarding the validity or the determinations made on the sale of personal property may be submitted to the Comptroller General.

Subpart D—Completion of Sale

Awards

§ 102–38.275 To whom do we award the sales contract?

You must award the sales contract to the bidder with the highest responsive bid, unless a determination is made to reject the bid under § 102–38.205.

§ 102–38.280 What happens when there is no award?

When there is no award made, you may sell the personal property at another sale, or you may abandon or destroy it pursuant to § 102–36.305 of this chapter.

Transfer of Title

§ 102–38.285 How do we transfer title from the Government to the buyer for personal property sold?

(a) Generally, no specific form or format is designated for transferring title from the Government to the buyer for personal property sold. For internal control and accountability, you must execute a bill of sale or another document as evidence of transfer of title or any other interest in Government personal property. You must also ensure that the buyer submits any additional certifications to comply with specific conditions and restrictions of the sale.

(b) For sales of vehicles, you must issue to the purchaser a Standard Form (SF) 97, the United States Government Certificate to Obtain Title to a Vehicle, or a SF 97A, the United States Government Certificate to Obtain a Non-Repairable or Salvage Certificate, as appropriate, as evidence of transfer of title. For information on how to obtain these forms, see § 102–2.135 of this chapter.

Payments

§ 102–38.290 What types of payment may we accept?

You must adopt a payment policy that protects the Government against fraud. Acceptable payments include, but are not limited to, the following:

(a) U.S. currency or any form of credit instrument made payable on demand in U.S. currency, *e.g.,* cashier's check, money order. Promissory notes and postdated credit instruments are not acceptable.

(b) Irrevocable commercial letters of credit issued by a United States bank payable to the Treasurer of the United States or to the Government agency conducting the sale.

(c) Credit or debit cards.

Disposition of Proceeds

§ 102–38.295 May we retain sales proceeds?

Generally, no, you may not retain sales proceeds. You must deposit all proceeds from the sale of personal property as miscellaneous receipts in the U.S. Treasury. However, you may retain sales proceeds if one of the following applies:

(a) You have statutory authority to retain proceeds from sales of personal property;

(b) You sold property acquired with non-appropriated funds as defined in § 102–36.40 of this chapter;

(c) You sold property that was contractor inventory and the contract provisions authorize the proceeds of sale to be credited to the cost of the contract or subcontract;

(d) You sold property to obtain replacement property under the exchange/sale authority pursuant to part 102–39 of this chapter; or

(e) You sold property related to waste prevention and recycling programs, under the authority of Section 608 of Public Law 105–277 (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681–514). Consult your General Counsel or Chief Financial Officer for guidance on use of this authority.

§ 102–38.300 What happens to the remaining portion of the proceeds if we are authorized to retain only a portion of the proceeds from the sale of personal property?

If you are authorized by law or another provision to retain a portion of the sales proceeds to cover your direct costs, you must deposit any remaining unused balance as miscellaneous receipts in the U.S. Treasury. Also, any unused balance not applied toward the purchase of replacement property under § 102–38.295(d) must be deposited as miscellaneous receipts in the U.S. Treasury.

Disputes

§ 102–38.305 How do we handle disputes involved in the sale of Federal personal property?

First contact your Office of General Counsel. Further guidance can be found in the Contract Disputes Act of 1978, as amended (41 U.S.C. 601–613), and the Federal Acquisition Regulation (FAR) 48 CFR part 33.

§ 102–38.310 Are we required to use the Disputes clause in the sale of personal property?

Yes, you must ensure the Disputes clause contained in Federal Acquisition Regulation (FAR) 52.233–1 (48 CFR part 52) is included in all offers to sell and contracts for the sale of personal property.

§ 102–38.315 Are we required to use the Alternative Disputes Resolution for sales contracts?

No, you are not required to use the Alternative

Disputes Resolution (ADR) for sales contracts. However, you are encouraged to use ADR procedures in accordance with the authority and the requirements of the Alternative Disputes Resolution Act of 1998 (28 U.S.C. 651 *et seq.*).

Subpart E—Other Governing Statutes

§ 102–38.320 Are there other statutory requirements governing the sale of Federal personal property?

Yes, in addition to the Property Act the sale of Federal personal property is governed by other statutory requirements, specifically antitrust requirements that are discussed in § 102–38.325.

Antitrust Requirements

§ 102–38.325 What are the requirements pertaining to antitrust laws?

When the sale of personal property has an estimated fair market value of $3 million or more, or if the sale involves a patent, process, technique, or invention, you must notify the Attorney General of the Department of Justice (DOJ) and get DOJ's opinion as to whether the sale would give the buyer an unfair advantage in the marketplace and violate any antitrust laws. Include in the notification the description and location of the property, method of sale and proposed selling price, and information on the proposed purchaser and intended use of the property. You must not complete the sale until you have received confirmation from the Attorney General that the proposed transaction would not violate any antitrust laws.

Subpart F—Reporting Requirements

§ 102–38.330 Are there any reports that we must submit to GSA?

Yes, there are two sales reports you must submit to GSA, Personal Property Management Policy Division (MTP), Washington, DC 20405:

(a) *Negotiated sales report.* Within 60 calendar days after the close of each fiscal year, you must provide GSA with a listing and description of all negotiated sales with an estimated fair market value in excess of $5,000 (*see* § 102–38.115). For each negotiated sale meeting that criterion, provide the following:

(1) Description of the property (including quantity and condition);

(2) Acquisition cost and date (if not known, estimate and so indicate);

(3) Estimated fair market value (including date of estimate and name of estimator);

(4) Name and address of purchaser;

(5) Date of sale;

(6) Gross and net sales proceeds; and

(7) Justification for conducting a negotiated sale.

(b) *Exchange/sale report.* Within 90 calendar days after the close of each

fiscal year, you must provide a summary report to GSA of transactions conducted under the exchange/sale authority under part 102–39 of this chapter (see § 102–39.75).

§ 102–38.335 Is there any additional personal property sales information that we must submit to GSA?

Yes, you must report to GSA's Asset Disposition and

Management System (ADMS), once that capability is established, any sales information that GSA deems necessary.

Subpart G—Sales to State and Local Governments

§ 102–38.340 How may we sell personal property to State and local governments?

You may sell Government personal property to State and local governments through:

(a) Competitive sale to the public;

(b) Negotiated sale, through the appropriate State Agency for Surplus Property (SASP); or

(c) Negotiated sale at fixed price (fixed price sale), through the appropriate SASP. (This method of sale can be used prior to a competitive sale to the public, if desired.)

§ 102–38.345 Do we have to withdraw personal property advertised for public sale if a State Agency for Surplus Property (SASP) wants to buy it?

No, you are not required to withdraw the item from public sale if the property has been advertised.

§ 102–38.350 Are State and local governments subject to the same payment requirements as public buyers?

Generally, yes, State and local governments have the same general payment requirements as other buyers, and payment must be made within 30 calendar days after purchase. However, you may waive the requirement for bid deposits and payments prior to removal of the property. If payment is not made within 30 days, you may charge simple interest at the rate established by the Secretary of the Treasury as provided in section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), from the date of written demand for payment.

§ 102–38.355 Do the regulations of this part apply to SASPs?

Yes, SASPs must follow the regulations in this part when conducting sales on behalf of GSA of Government personal property in their custody.

Dated: June 28, 2002.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 02–17495 Filed 7–18–02; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 83

Procedures for Designating Classes of Employees as Members of the Special Exposure Cohort Under the Energy Employees Occupational Illness Compensation Program Act of 2000; Meetings

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule; notice of meetings and opportunity to comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), announces public meetings to present the U.S. Department of Health and Human Services (HHS) proposed rule for adding classes of employees to the Special Exposure Cohort Under the Energy Employees Occupational Illness Compensation Program Act.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/458–7125.

SUPPLEMENTARY INFORMATION:

Time and Date: 7 p.m.–9 p.m., July 23, 2002.

Place: Buffalo Niagara Marriott, 1340 Millersport Highway, Amherst, New York. Telephone: 716/689–6900.

Time and Date: 7 p.m.–9 p.m., July 25, 2002.

Place: Sharonville Convention Center, 11355 Chester Road, Sharonville, Ohio. Telephone: 513/771–7744.

Time and Date: 7 p.m.–9 p.m., August 7, 2002.

Place: Red Lion Hotel, Richland Hanford House, 802 George Washington Way, Richland, Washington. Telephone: 509/943–7611.

Time and Date: 7 p.m.–9 p.m., August 8, 2002.

Place: Espanola Senior Citizens Center, 735 Vietnam Veterans' Memorial Park Road, Espanola, New Mexico. Telephone: 505/753–9850.

Status: Open to the public, limited only by the space available. The meeting rooms accommodate approximately 150 people.

Matters To Be Discussed: In July 2001, the U.S. Department of Labor (DOL) began a new federal compensation program under the Energy Employees' Occupational Illness Compensation Program Act (the Act). The compensation program serves employees of the U.S. Department of Energy (DOE), its contractors, or subcontractors, and the employees of Atomic Weapons Employers designated by DOE, and survivors of these employees. The compensation program covers claims for current or former employees who developed chronic beryllium disease, beryllium sensitization, silicosis, or cancers associated with certain defined occupational exposures occurring in the performance of duty for U.S. nuclear weapons programs. Claims for cancer have to meet conditions related to one of two general requirements: either (1) the cancer of the employee has to be found to have been at least as likely as not caused by radiation doses incurred by the employee in the performance of duty for the nuclear weapons programs, or (2) the employee must be a member of the ''Special Exposure Cohort'' and have developed one of 22 specific cancer types, referred to as ''specified cancers.''

The Act defined the initial membership of the Special Exposure Cohort to include qualified employees who worked at any of three gaseous diffusion plants of the U.S. Department of Energy or a nuclear weapons test site in Amchitka, Alaska. However, the Act also allows classes of employees from facilities of DOE or of Atomic Weapons Employers to petition to be added to the Special Exposure Cohort. The outcome of the petitions will be decided by the Secretary, HHS. The procedures for making and deciding such petitions are described in a rule (a regulation) recently proposed by HHS for public comment (42 CFR part 83: ''Procedures for Designating Classes of Employees as Members of the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation program Act of 2000:'' Notice of Proposed Rulemaking; 67 FR 42962; June 25, 2002). The public comment period ends on August 26, 2002.

Purpose: The purpose of these public meetings is to present and explain the recent proposed rule by the HHS on how it would consider petitions to add classes of employees to the ''Special Exposure Cohort'' established under the Energy Employees'' Occupational Illness Compensation Program Act. The meetings will allow members of the public to comment in person on this proposed regulation.

Matters To Be Discussed: HHS staff will give a summary presentation of the proposed rule. The public attending these meetings will have the opportunity to ask questions about the HHS rule and to comment on the rule. The public attending these meetings will also be encouraged to submit written comments to the regulatory record (docket). Official transcripts of the meetings, including all public comments on the proposed rule presented orally during the meetings, will be included in the public comment record (the 'docket') developed as part of the HHS rule making. HHS will consider comments received during the public comment period, which concludes on August 26, 2002, before issuing a final rule establishing procedures for adding classes of employees to the Special Exposure Cohort.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: July 15, 2002.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–18361 Filed 7–18–02; 8:45 am]

BILLING CODE 4163–19–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1553 et al.]

Radio Broadcasting Services; Gunnison, CO; Elkhart, KS; Austin, NV; Baker, NV; Battle Mountain, NV; Eureka, NV; Fallon, NV; Cimarron, NM; Red Oak, OK; Channing, TX; Eldorado, TX; Escobares, TX; Matador, TX; Memphis, TX; Milano, TX; Ozona, TX; Rotan, TX; Wellington, TX; Moah, UT; and Salina, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes 20 new allotments in Gunnison, CO; Elkhart, KS; Austin, NV; Baker, NV; Battle Mountain, NV; Eureka, NV; Fallon, NV; Cimarron, NM; Red Oak, OK; Channing, TX; Eldorado, TX; Escobares, TX; Matador, TX; Memphis, TX; Milano, TX; Ozona, TX; Rotan, TX; Wellington, TX; Moah, UT; and Salina, UT. The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 263C1 at Elkhart, Kansas, as the community's first local aural transmission service. Channel 263C1 can be allotted to Elkhart in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 263C1 at Elkhart are 37–00–29 North Latitude and 101–53–23 West Longitude. *See* Supplementary Information, *infra.*

DATES: Comments must be filed on or before August 26, 2002, and reply comments on or before September 10, 2002.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Mr. Willison H. Gormly, Sierra Grande Broadcasting, P.O. Box 51, Des Moines, New Mexico 88418–0051 (Petitioner for Elkhart, Kansas; Austin, Baker, Battle Mountain, Eureka, and Fallon, Nevada; Cimarron, New Mexicao; Moab and Salina, Utah; and Gunnison, Colorado); Ms. Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214 (Petitioner for Eldorado and Memphis, Texas); Ms. Linda Crawford, 3500 Maple Ave., #1320, Dallas, Texas 75219 (Petitioner for Channing, Ozona, and Rotan, Texas); Mr. Charles Crawford, 4553 Bordeaux Ave., Dallas, Texas 75205 (Petitioner for Escobares, Texas); Mr. Maurice Salsa, 5615 Evergreen Valley Drive, Kingwood, Texas 77345 (Petitioner for Wellington and Matador, Texas; and Red Oak, Oklahoma); and Mr. David P. Garland, 1110 Hackney Street, Houston, Texas 77023 (Petitioner for Milano, Texas).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–158, MB Docket No. 02–159, MB Docket No. 02–160, and MB Docket No. 02–161, MB Docket No. 02–162, MB Docket No. 02–163, MB Docket No. 02–164, MB Docket No. 02–165, and MB Docket No. 02–166, MB Docket No. 02–167, MB Docket No. 02–168, MB Docket No. 02–169, MB Docket No. 02–170, MB Docket No. 02–171, MB Docket No. 02–172, MB Docket No. 02–173, MB Docket No. 02–174, MB Docket No. 02–175, MB Docket No. 02–176, and MB Docket No. 02–177, adopted August 26, 2002, and released September 10, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, Room CY–B402, Washington, DC 20554.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 227C at Austin, Nevada, as the community's first local aural transmission service. Channel 227C can be allotted to Austin in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 227C at Austin are 39–29–36 North Latitude and 117–04–07 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 296C at Baker, Nevada, as the community's first local aural transmission service. Channel 296C can be allotted to Baker in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 296C at Baker are 38–51–12 North Latitude and 114–18–06 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 231C at Battle Mountain, Nevada, as the community's second local FM transmission service. Channel 231C can be allotted to Battle Mountain in compliance with the Commission's minimum distance separation requirements with a site restriction of 8 kilometers (5 miles) west to avoid a short-spacing to the licensed site of Station KLKO(FM), Channel 229C2 at Elko, Nevada. The coordinates for Channel 231C at Battle Mountain are 40–36–39 North Latitude and 117–01–24 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 300C at Eureka, Nevada, as the community's first local aural transmission service. Channel 300C can be allotted to Eureka compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 300C at Eureka are 39–40–46 North Latitude and 115–57–35 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of

Channel 297C at Fallon, Nevada, as the community's fourth local FM transmission service. Channel 297C can be allotted to Fallon in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.25 kilometers (113.2 miles) south east to avoid a short-spacing to the vacant allotment site for Channel 297C at Alturas, California. The coordinates for Channel 297C at Fallon are 39–18–54 North Latitude and 118–38–18 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 236C2 at Cimarron, New Mexico, as the community's first local aural transmission service. Channel 236C2 can be allotted to Cimarron in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.5 kilometers (0.3 miles) south to avoid a short-spacing to the licensed site of Station KRDO–FM, Channel 236C2, Colorado Spring, Colorado. The coordinates for Channel 236C2 at Cimarron are 38–34–24 North Latitude and 109–32–57 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 234C at Moab, Utah, as the community's second local FM transmission service. Channel 246C1 can be allotted to Moab in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 246C1 at Moab are 38–34–24 North Latitude and 109–32–57 West Longitude.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 276C at Salina, Utah, as the community's first local aural transmission service. Channel 276C can be allotted to Salina in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 276C at Salina are 38–57–28 North Latitude and 111–51–33 West Longitude.

The Commission requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 241A at Eldorado, Texas, as potentially the community's fourth local FM transmission service. Channel 241A can be allotted to Eldorado in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.4 kilometers (0.9 miles) southwest to avoid a short-spacing to the licensed site of Station KORQ(FM), Channel 241C2, Winters, Texas.

The Commission requests comments on a petition filed by Linda Crawford proposing the allotment of Channel 284C at Channing, Texas, as the community's first local aural transmission service. Channel 284C can be allotted to Channing in compliance with the Commission's minimum distance separation requirements with a site restriction of 38.0 kilometers (23.6 miles) northwest to avoid short-spacings to the licensed sites of Station KQFX(FM), Channel 282C1, Borger, Texas, and Station KLGD(FM), Channel 285C1, Tulia, Texas. The coordinates for Channel 284C at Channing are 35–58–15 North Latitude and 102–33–43 West Longitude.

The Commission requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 284A at Escobares, Texas, as the community's first local aural transmission service. Channel 284A can be allotted to Escobares in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.8 kilometers (4.2 miles) northeast to avoid a short-spacing to the licensed site of Station XHMF–FM, Channel 283C, Monterrey, Mexico. The coordinates for Channel 284A at Escobares are 26–26–29 North Latitude and 98–54–14 West Longitude. Since Escabares is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Linda Crawford proposing the allotment of Channel 275C3 at Ozona, Texas, as the community's third local FM transmission service. Channel 275C3 can be allotted to Ozona in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 275C3 at Ozona are 30–42–30 North Latitude and 101–12–06 West Longitude. Since Ozona is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Sierra Grande Broadcasting proposing the allotment of Channel 265C2 at Gunnison, Colorado, as the community's third local FM transmission service. Channel 265C2 can be allotted to Gunnison in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.2 kilometers (7 miles) northwest to avoid shot-spacings to the licensed sites for Station KGFT(FM), Channel 264C, Pueblo, Colorado, and Station KMOZ–FM, Channel 264C1, Grand Junction, Colorado. The coordinates for Channel 265C2 at Gunnison are 38–37–00 North Latitude and 107–01–00 West Longitude.

The Commission requests comments on a petition filed by Linda Crawford proposing the allotment of Channel 290A at Rotan, Texas, as the community's first local aural transmission service. Channel 290A can be allotted to Rotan in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 290A at Rotan are 32–51–07 North Latitude and 100–27–55 West Longitude.

The Commission requests comments on a petition filed by Maurice Salsa proposing the allotment of Channel 248A at Wellington, Texas, as the community's second local commercial FM transmission service. Channel 248A can be allotted to Wellington in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.0 kilometers (8.7 miles) northwest to avoid a short-spacing to the allotment site for Channel 248C1, Archer City, Texas. The coordinates for Channel 248A at Wellington are 34–56–51 North Latitude and 100–19–10 West Longitude.

The Commission requests comments on a petition filed by Maurice Salsa proposing the allotment of Channel 227A at Red Oak, Texas as the community's first local aural transmission service. Channel 227A can be allotted to Red Oak in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.8 kilometers (7.9 miles) south to avoid a short-spacing to the licensed site of Station KKNG–FM, Channel 227C1, New Castle, Oklahoma. The coordinates for Channel 227A at Red Oak are 34–50–34 North Latitude and 95–07–42 WL West Longitude.

The Commission requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 292A at Memphis, Texas, as potentially the community's third local FM transmission service. Channel 292A can be allotted to Memphis in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 292S at Memphis are 34–43–29 North Latitude and 100–32–01 West Longitude.

The Commission requests comments on a petition filed by Maurice Salsa

proposing the allotment of Channel 227C3 at Matador, Texas, as the community's first local FM transmission service. Channel 227C3 can be allotted to Matador in compliance with the Commission's minimum distance separation requirements with a site restriction of. The coordinates for Channel 227C3 at Matador are 3–10–06 North Latitude and 100–43–57 West Longitude.

The Commission requests comments on a petition filed by David P. Garland proposing the allotment of Channel 274A at Milano, Texas, as the community's first local aural transmission service. Channel 274A can be allotted to Milano in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.9 kilometers (7.4 miles) southwest to avoid short-spacings to the licensed sites of Station KBRQ(FM), Channel 273C1, Hillsboro, Texas, and Station KTFM(FM), Channel 274C1, San Antonio, Texas. The coordinates for Channel 274A at Milano are 30–38–10 North Latitude and 96–57–10 West Longitude.

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.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 265C2 at Gunnison.

3. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Elkhart, Channel 263C1.

4. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Austin, Channel 227C; by adding Baker, Channel 296C, by adding Channel 231C at Battle Mountain; by adding Eureka, Channel 300C; and by adding Channel 297C at Fallon.

5. Section 73.202(b), the Table of FM allotments under New Mexico, is amended by adding Cimarron, Channel 236C2.

6. Section 73.202(b), the Table of FM allotments under Okalahoma, is amended by adding Red Oak, Channel 227A.

7. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding by adding Channing, Channel 284C; by adding Channel 241A at Eldorado; by adding Escobares, Channel 284A; by adding Matador, Channel 227C3; by adding Channel 292A at Memphis; by adding Milano, Channel 274A; by adding Channel 275C3 at Ozona; and by adding Rotan, Channel 290A.

8. Section 73.202(b), the Table of FM Allotments under Utah, is amended by adding Channel 234C1 at Moab; and by adding Salina, Channel 276C.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–18251 Filed 7–18–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 070802D]

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

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. NMFS announces that the Regional Administrator proposes to issue EFPs that would allow two vessels to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. EFPs would allow exemptions to gear restrictions and to the Days-at-Sea (DAS) requirements of the FMP. The experiment proposes to compare two experimental trawl net configurations (2½–inch (6.35–cm) diamond and 3–inch (7.62–cm) diamond codend mesh sizes in a net with a finfish excluder device and a raised footrope with no sweep) to compare various dropper chain lengths and locations on the footrope and to fish this gear in a variety of bottom types and depths to selectively fish for whiting (*Merluccius bilinearis*), while maintaining low levels of regulated Northeast multispecies bycatch.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before August 5, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Whiting EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION: The Maine Division of Marine Resources (MEDMR) submitted an application for EFPs on June 14, 2002, with final revisions received on June 27, 2002. The EFPs would facilitate the collection of data on experimental gear performance for use in addressing whiting conservation issues (juvenile whiting bycatch) and reductions in regulated Northeast multispecies bycatch in the Gulf of Maine whiting fishery (Maine whiting fishery). MEDMR also intends to present the findings of the data from the experiment to the New England Fishery Management Council (Council) for its consideration when evaluating year–4 default measures and long-term management options for the whiting resource.

The experiment would occur within a portion of the Gulf of Maine/Georges Bank Regulated Mesh Area (GOM/GB RMA), well within the Northern Shrimp Small Mesh Exemption Area; specifically, from the shore at 44°18′ N. lat., 69°00′ W. long., south to 43°35.3′ N. lat., 69°00′ W. long., southwesterly to 43°00′ N. lat., 70°30′ W. long., then northerly to the shore at 43°21′ N. lat., 70°30′ W. long. The experimental fishing area would exclude any seasonal or year-round closures overlapping it in time or area and would operate for 3 months, from mid-July through mid-October 2002. Field testing of the proposed gear modification through the gear trials would take place for approximately 6 days a month from July through mid-October 2002 to allow for weather contingencies and to capture seasonal variability in target species distribution and abundance.

The experiment is a continuation of, and intends to build on, previous gear studies (i.e., a gear testing component of the traditional Separator Trawl Whiting Experimental Fishery) that tested and assessed gear selectivity factors designed to address bycatch issues in the Maine whiting fishery. The main purpose of this four-phase study is as follows: (1) To obtain better video footage of the gear and its interactions with fish and habitat (singular and combined effects); (2) to compare 2 and one-half-inch (6.35–cm) diamond codend mesh against 3-inch (7.62–cm) diamond codend mesh, each with 2–inch (5.08–cm) grate bar spacings in combination with 42–inch (106.7–cm) dropper chains on a raised footrope trawl net configuration; (3) to test various dropper chain configurations for balance with the number of headrope floats for best net stability; and (4) to tow the best net configuration over a variety of bottom types and depths under commercial conditions to ensure that the net will continue to work well with heavier catches.

The field work would require 276 total hours of towing; 2 and one-half-inch (6.35–cm) versus 3–inch (7.62–cm) codend gear trials would entail 36 total hours of trawling activity (6 days paired towing with 6 half-hour tows per day for each of the two vessels), followed by 240 total hours of towing during the remaining sea trials (4 days each per month for 3 months for two vessels towing an average of 10 hours per day).

Projected whiting landings based on MEDMR sea sampling data during July and August 1999 are estimated at upper catch rates of between 18,960 lb (8,600.11 kg) and 31,680 lb (14,369.80 kg) of whiting total (based upon an average catch per unit effort of between 790 lb (358.34 kg) and 1,320 lb (598.74 kg) per trip). Lower catch rates are estimated at 42 lb (19.05 kg)/trip or 1,008 lb 457.22 kg) total catch for the 24 gear trial trips, excluding the 12 paired tow trips where minimal catch would be retained. These catch levels are well within the possession/landing limits for vessels using small mesh within the GOM/GB RMA. Landed catch would not exceed current restrictions, depending on mesh size being used. Thus, the experimental gear trials are expected to have very little incremental impact on the whiting resource. Participants may retain whiting and Atlantic herring (*Clupea harengus*) for commercial sale up to the applicable landing limits.

Historically, the Maine whiting fishery, through its use of the separator trawl (the control gear in this experiment), has experienced low levels of regulated multispecies bycatch. One of the objectives of the experiment is to demonstrate that the proposed gear combinations of separator grate, mesh size and raised footrope trawl configuration can selectively fish for whiting, while avoiding impacts on regulated finfish species. The applicant notes that the proportion of bycatch to the total catch (percent bycatch) may exceed acceptable levels when target species catch rates are low. Nonetheless, the applicant expects that the average bycatch levels would not exceed acceptable thresholds.

All of the paired tow trips and 25 percent of the remaining 24 trips would have an MEDMR sea sampler on board and the catch would be measured according to NMFS sea sampling methodology and recorded on NMFS logbooks. For all trips without a sea sampler, the captain would record total catch, catch of whiting, and catch in numbers and weight of each regulated species for each tow in a logbook supplied by MEDMR. Any sub-legal sized fish would be measured by the sea samplers and returned immediately to the water.

The applicant plans to conduct public outreach meetings to present the gear research findings to the remainder of the fleet that did not participate in the experimental fishery. It is intended that the results of this gear work will be the basis for a request to the Council for a Maine whiting fishery exemption within an appropriate area and under certain gear restrictions.

EFPs would exempt two vessels from the DAS requirements and gear restrictions of the FMP found at 50 CFR part 648, subpart F.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: July 12, 2002.

Virginia M. Fay,

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

[FR Doc. 02–18265 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 139

Friday, July 19, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee

AGENCY: Forest Service, USDA

ACTION: Action of meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RAC) will meet on Thursday, August 8, 2002. The meeting is scheduled to begin at 9 a.m. and will conclude at approximately 4 p.m. The meeting will be held at the Salem Office of the Bureau of Lane Management Office; 1717 Fabry Road SE; Salem, Oregon; (503) 375–5646. The tentative agenda includes: (1) Report on status of 2002 projects; (2) Recommendations on 2003 Projects; and (3) Public Forum.

The Public Forum is tentatively scheduled to begin at 9:30 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged; particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the August 8th meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: July 10, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–18201 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou Resource Advisory Committee (RAC); Notice of Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou Resource Advisory Committee (RAC) will meet on Tuesday, August 20, and Wednesday, August 21, 2002. Tuesday's meeting is scheduled to begin at 10 a.m. and conclude at approximately 5 p.m. Wednesday's meeting will begin at 8:30 a.m. and will conclude at approximately 12 noon. The meeting will be held at the Harbor Sanitary District Office, 16408 Lower Harbor Rd., Brookings, Oregon. The tentative agenda for August 20 includes: (1) Review and recommendation of projects for fiscal year 2003 funding and (2) Public Forum. The public forum is tentatively scheduled to begin at 11 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. The tentative agenda for August 21 includes: (1) Review and recommendation of projects for fiscal year 2003 funding (2) Public Forum. The public forum is tentatively scheduled to begin at 9 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged particularly if the material cannot be presented within the time limits for the public forum. Written comments may be submitted prior to the August 20 and 21 meetings by sending them to the Designated Federal Official, Tom Reilly at the address given below.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official Tom Reilly; Rogue and Siskiyou National Forests; P.O. Box 520, Medford, Oregon 97501; (541) 858–2200.

Dated: July 15, 2002.

Tom Reilly,

Acting Forest Supervisor, Rogue River and Siskiyou National Forests.

[FR Doc. 02–18238 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Yellow River Watershed Structure No. 14: Gwinnett County, GA

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102[2][c] of the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations [40 CFR Part 1500]; and the Natural Resources Conservation Service Regulations [7 CFR Part 650]; the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Yellow River Watershed Structure No. 14, Gwinnett County, Georgia.

FOR FURTHER INFORMATION CONTACT: Jimmy Bramblett, Water Resources Specialist, Natural Resources Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30601, Telephone (706) 546–2073, E-Mail *jimmy,bramblett@ga.usda.gov.*

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Leonard Jordan, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is continued flood prevention. The planned works of improvement include upgrading an existing floodwater retarding structure.

The Notice of a Finding of No Significant Impact [FONSI] has been forwarded to the U.S. Environmental Protection Agency and to various Federal, States, and local agencies and interest parties. A limited number of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Jimmy Bramblett at the above number.

No administrative action on implementation of the proposal will be

taken until 30 days after the date of this publication in the **Federal Register.**

[This activity is listed in the Catalog of Federal Domestic Assistance under 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12373, which requires inter-government consultation with State and local officials].

Leonard Jordan,

State Conservationist.

Introduction

The Yellow River Watershed is a federally assisted action authorized for planning under Public Law 106–472, the Small Watershed Rehabilitation Act, which amends Public Law 83–566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, 355 East Hancock Avenue, Athens, Georgia 30601.

Recommended Action

This document describes a plan for upgrading an existing floodwater retarding structure, Yellow River Watershed Structure No. 14 [Y–14], to meet current dam safety criteria in Georgia. The plan calls for construction of a roller-compacted concrete emergency spillway over the top of an existing earthen embankment. Works of improvement will be accomplished by providing financial and technical assistance through an eligible local sponsor.

The principal project measures are to:

1. Construct a roller-compacted concrete emergency spillway over the top of an existing earthen embankment. This constructed emergency spillway is designed to bring the existing dam into compliance with current dam safety criteria in Georgia. The current emergency spillway will be removed from service by constructing a berm from material excavated on the existing embankment.

2. The measures will be planned and installed by developing a contract with the current operator of the dam.

Effects of Recommended Action

Installing a roller-compacted emergency spillway will bring Yellow River Watershed Structure No. 14 into compliance with current dam safety criteria. This will essentially eliminate the risk to loss of life for individuals in 45 homes, 2 businesses, 2 recreational facilities, and 5 roads [7 bridges] downstream. Additional effects will include continued protection against flooding, continued water quality benefits, continued fishing activities, continued recreational opportunities, protected land values, protected road and utility networks, and reduced maintenance costs for public infrastructure.

Wildlife habitat will not be disturbed during installation activities. No wetlands, wildlife habitat, fisheries, prime farmland, or cultural resources will be destroyed or threatened by this project. Some 25 acres of wetland and wetland type wildlife habitat will be preserved. Fishery habitats will also be maintained.

No endangered or threatened plant or animal species will be adversely affected by the project.

There are no wilderness areas in the watershed.

Scenic values will be complemented with improved riparian quality and cover conditions resulting from the installation of conservation animal waste management system and grazing land practices.

Alternatives

Seven alternative plans of action were considered in project planning. No significant adverse environmental impacts are anticipated from installation of the selected alternative. Also, the planned action is the most practical, complete, and acceptable means of protecting life and property of downstream residents.

Consultation—Public Participation

Original sponsoring organizations include the Gwinnett County Government, Gwinnett County Soil and Water Conservation District, and the Upper Ocmulgee River Resource Conservation and Development Council. At the initiation of the planning process, meetings were held with representatives of the original sponsoring organizations to ascertain their interest and concerns regarding the Yellow River Watershed. Gwinnett County agreed to serve as ''lead sponsor'' being responsible for leading the planning process with assistance from NRCS. As lead sponsor they also agreed to provide non-federal cost-share, property rights, operation and maintenance, and public participation during, and beyond, the planning process. Meetings with the project sponsors were held throughout the planning process, and project sponsors provided representation at planning term, technical advisory, and public meetings.

An Interdisciplinary Planning Team provided for the ''technical'' administration of this project. Technical administration includes tasks pursuant to the NRCS nine-step planning process, and planning procedures outlined in the NRCS–National Planning Procedures Handbook. Examples of tasks completed by the Planning Team include, but are not limited to, Preliminary Investigations, Hydrologic Analysis, Reservoir Sedimentation Surveys, Economic Analysis, Formulating and Evaluating Alternatives, and Writing and Watershed Plan—Environmental Assessment. Data collected from partner agencies, databases, landowners, and others throughout the entire planning process, were evaluated at Planning Team meetings held on 1/27/02, 2/14/02, 2/27/02, 3/20/02, 5/29/02, 6/12/02, and 6/26/02. Informal discussions amongst planning team members, partner agencies, and landowners were conducted throughout the entire planning period.

A Technical Advisory Group was developed to aid the Planning Team with the planning process. The following agencies were involved in developing this plan and provided representation on the Technical Advisory Group:

- Gwinnett County Government
- Gwinnett County Soil and Water Conservation Districts
- Georgia Department of Natural Resources, Environmental Protection Division [EPD], Safe Dams Program
- Georgia Department of Natural Resources, Wildlife Resources Division [WRD], Game and Fisheries Section
- United States Environmental Protection Agency [EPA], Region IV
- USDA, Natural Resources Conservation Service [NRCS]
- USDA, Fish and Wildlife Service [F&WS]
- US Army Corps of Engineers [COE]

A meeting and field tour with the Technical Advisory Group was held on February 27, 2002 to assess proposed measures and their potential impact on resources of concern. A review of National Environmental Policy Act [NEPA] concerns was initiated at this meeting. Effects of proposed measures on NEPA concerns reviewed were documented. Additional field tours were held with the COE on March 11, 2002 to determine the most efficient 404 permitting process.

Suzanne Kenyon, Cultural Resources Specialist with the NRCS-National Water Management Center, visited the

project site in the fall of 2001. She provided a methodology for considering culturally significant resources, which was followed in this planning process. An inventory of the watershed, and associated downstream impacted area was completed with no culturally important or archaeological sites noted. The area of potential effect was provided to the Georgia State Historic Preservation Office with passive concurrence provided.

Public Participation

A public meeting was held on March 20, 2002 to explain the Small Watershed Rehabilitation Program and to scope resource problems, issues, and concerns of local residents associated with the Y–14 project area. Potential alternative solutions to bring Y–14 into compliance with current dam safety criteria were also presented. Through a voting process, meeting participants provided input on issues and concerns to be considered in the planning process, and identified the most socially acceptable alternative solution.

A second public meeting was held on June 26, 2002 to summarize planning accomplishments, convey results of the reservoir sedimentation survey, and present various structural alternatives. The roller compacted concrete alternative was identified as the most complete, acceptable, efficient, and effective plan for the watershed.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant adverse local, regional or national impacts on the environment. Therefore, based on the above finding, I have determined that an environmental impact statement for the recommended plan of action on Yellow River Watershed Structure No. 14 is not required.

Dated: July 8, 2002.

Leonard Jordan,

State Conservationist.

[FR Doc. 02–18228 Filed 7–18–02; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: August 18, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the product and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following product and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Product

Product/NSN: Case, Crash Rescue Kit, 4210–00–NSH–0001.
NPA: Development Workshop, Inc., Idaho Falls, Idaho.
Contract Activity: Bureau of Land Management, NIFS, Boise, Idaho, Boise, Idaho.

Services

Service Type/Location: Administrative Services, Federal Trade Commission, Washington, DC.
NPA: Sheltered Occupational Center of Northern Virginia, Inc., Arlington, Virginia.
Contract Activity: Federal Trade Commission, Washington, DC.
Service Type/Location: Janitorial/Custodial, Building 2155, Fort Polk, Louisiana.
NPA: Vernon Sheltered Workshop, Leesville, Louisiana.
Contract Activity: Directorate of Contracting, Fort Polk, Louisiana.
Service Type/Location: Mattress Resizing, Defense Supply Center—Philadelphia, Philadelphia, Pennsylvania.
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina.
Contract Activity: Defense Supply Center—Philadelphia, Philadelphia, Pennsylvania.

G. John Heyer,

General Counsel.

[FR Doc. 02–18275 Filed 7–18–02; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 18, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740

SUPPLEMENTARY INFORMATION: On May 31, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 38066) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities.

The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Janitorial/Custodial, FAA, Air Traffic Control Tower, Detroit Metropolitan Airport, Detroit, Michigan.
NPA: Jewish Vocational Service and Community Workshop, Inc., Southfield, Michigan.
Contract Activity: Federal Aviation Administration, Des Plaines, Illinois.
Service Type/Location: Janitorial/Custodial, Marine Corps Reserve Center, Brook Park, Ohio.
NPA: Goodwill Industries of Greater Cleveland, Inc., Cleveland, Ohio.
Contract Activity: Officer in Charge of Contracts, Crane, Indiana.
Service Type/Location: Mail Support Services, Department of Justice, Drug Enforcement Agency, Newark, New Jersey.
NPA: The First Occupational Center of New Jersey, Orange, New Jersey.
Contract Activity: Drug Enforcement Agency, Washington, DC.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 02–18276 Filed 7–18–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–804]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Australia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Paige Rivas at (202) 482–0651, or Mark Manning at (202) 482–5253, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references 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 to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Australia are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Australia,* 67 FR 31192 (May 9, 2002) (*Preliminary Determination*). *See* also *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. We gave interested parties an opportunity to comment on the preliminary determination. With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002.

We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted.

Critical Circumstances

In letters filed on December 7, 2001, and January 14, 2002, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of cold-rolled steel from Australia and other countries. On April 18, 2002, the Department published in the **Federal Register** its preliminary determination that critical circumstances exist for imports of cold-rolled steel from Australia and other countries. *See Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation,* 67 FR 19157 (April 18, 2002) and Memorandum from Bernard

Carreau to Faryar Shirzad, ''Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Australia, India, the Netherlands, and the Republic of Korea—Preliminary Affirmative Determinations of Critical Circumstances,'' dated April 10, 2002.

We received no comments from the petitioners or the respondent regarding our preliminary finding that critical circumstances exist for imports of cold-rolled steel from Australia. Therefore, we have not changed our determination and continue to find that critical circumstances exist for imports of cold-rolled steel from Australia. Regarding the other countries for which we preliminarily found affirmative critical circumstances, we will make final determinations concerning critical circumstances for these countries when we make our final dumping determinations in those investigations.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the ''Scope Appendix'' attached to this final determination notice. For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Analysis of Comments Received

As noted above, there were no case or rebuttal briefs submitted in this investigation, nor was there a hearing.

Use of Facts Available

In the *Preliminary Determination,* the Department applied total adverse facts available to the mandatory respondent, Broken Hill Propriety Limited Steel (BHP JLA), and BHP Steel Americas (BHPSA) (collectively known as BHP), because BHP chose not to participate in the investigation. As a result, the Department assigned BHP the rate of 24.06 percent, the rate derived from the petition. *See Initiation Notice.* Also, the Department applied the petition margin of 24.06 percent as the ''all others'' rate. The interested parties did not object to the use of adverse facts available, or to the Department's choice of facts available. For this final determination, we are continuing to apply total adverse facts available to BHP.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of cold-rolled steel from Australia that are entered, or withdrawn from warehouse, for consumption on or after February 9, 2002, which is 90 days prior to the date the *Preliminary Determination* was published in the **Federal Register**, because of our affirmative critical circumstances finding in accordance with section 735(a)(3) of the Act. Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period July 1, 2000 through June 30, 2001:

Manufacturer/exporter	Margin (percent)
BHP	24.06
All Others	24.06

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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 an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Scope of the AD/CVD Investigations on Certain Cold-Rolled Steel Products

For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' on file in the CRU. This memorandum can also be accessed directly on the Web at *http://ia.ita.doc.gov/frn/summary/list.htm.* The paper copy and electronic version are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and motor lamination steels. IF steels are recognized as

low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the HTSUS, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 % or less, by weight, and; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 % of manganese, or 2.25 % of silicon, or 1.00 % of copper, or 0.50 % of aluminum, or 1.25 % of chromium, or 0.30 % of cobalt, or 0.40 % of lead, or 1.25 % of nickel, or 0.30 % of tungsten, or 0.10 % of molybdenum, or 0.10 % of niobium (also called columbium), or 0.15 % of vanadium, or 0.15 % of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded.

The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- *SAE grades* (formerly also called AISI grades) above 2300;
- *Ball bearing steels,* as defined in the HTSUS;
- *Tool steels,* as defined in the HTSUS;
- *Silico-manganese steel,* as defined in the HTSUS;
- *Silicon-electrical steels,* as defined in the HTSUS, that are grain-oriented;
- *Silicon-electrical steels,* as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 %;
- *All products (proprietary or otherwise) based on an alloy ASTM specification* (sample specifications: ASTM A506, A507);
- *Non-rectangular shapes,* not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS;
- *Silicon-electrical steels,* as defined in the HTSUS, that are not grain-oriented and that have a silicon level less than 2.25 %, and (a) fully-processed, with a core loss of less than 0.14 watts/pound per mil (0.001 inch), or (b) semi-processed, with core loss of less than 0.085 watts/pound per mil (0.001 inch);
- *Certain shadow mask steel,* which is aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, and which meets the following characteristics:

Thickness: 0.001 to 0.010 inch
Width: 15 to 32 inches

CHEMICAL COMPOSITION

Element	C
Weight %	<0.002%

- *Certain flapper valve steel,* which is hardened and tempered, surface polished, and which meets the following characteristics:
  Thickness: ≤1.0mm
  Width: L ≤152.4 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S
Weight %	0.90–1.05	0.15–0.35	0.30–0.50	≤0.03	≤0.006

MECHANICAL PROPERITES

Tensile Strength	≥162 Kgf/mm^2
Hardness	≥ 475 Vickers hardness number

PHYSICAL PROPERTIES

Flatness	<0.2% of nominal strip width

Microstructure: Completely free from decarburization. Carbides are spheroidal and fine within 1% to 4% (area percentage) and are undissolved in the uniform tempered martensite.

NON-METALLIC INCLUSION

	Area percentage
Sulfide Inclusion	≤0.04%
Oxide Inclusion	≤0.05%

Compressive Stress: 10 to 40 Kgf/mm Surface Roughness

SURFACE ROUGHNESS

Thickness (mm)	Roughness (μm)
t ≤ 0.209	Rz ≤ 0.5
0.209 < t ≤0.310	Rz ≤ 0.6
0.310 < t ≤0.440	Rz ≤ 0.7
0.440 < t ≤0.560	Rz ≤ 0.8
0.560 < t	Rz ≤ 1.0

- *Certain ultra thin gauge steel strip,* which meets the following characteristics:
  Thickness: ≤0.100 mm ± 7%

Width: 100 to 600 mm

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Al	Fe
Weight %	≤0.07	0.2–0.5	≤0.05	≤0.05	≤0.07	Balance

MECHANICAL PROPERTIES

Hardness	Full Hard (Hv 180 minimum)
Total Elongation	<3%
Tensile Strength	600 to 850 N/mm

PHYSICAL PROPERTIES

Surface Finish	≤0.3 micron
Camber (in 2.0 m)	<3.0 mm
Flatness (in 2.0 m)	≤0.5 mm
Edge Burr	<0.01 mm greater than thickness
Coil Set (in 1.0 m)	<75.0 mm m

- *Certain silicon steel,* which meets the following characteristics:

Thickness: 0.024 inch ± 0.0015 inch
Width: 33 to 45.5 inches

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al
Min. Weight %						
Max. Weight %	0.004	0.4	0.09	0.009	0.65	0.4

MECHANICAL PROPERTIES

Hardness	B 60–75 (AIM 65)

PHYSICAL PROPERTIES

Finish	Smooth (30–60 microinches)
Gamma Crown (in 5 inches)	0.0005 inch, start measuring one-quarter inch from slit edge
Flatness	20 I–UNIT max.
Coating	C3A–08A max. (A2 coating acceptable)
Camber (in any 10 feet)	1/16 inch
Coil Size I.D.	20 inches

MAGNETIC PROPERTIES

Core Loss (1.5T/60 Hz) NAAS	3.8 Watts/Pound max.
Permeability (1.5T/60 Hz) NAAS	1700 gauss/oersted typical 1500 minimum

- *Certain aperture mask steel,* which has an ultra-flat surface flatness and which meets the following characteristics:

Thickness: 0.025 to 0.245 mm
Width: 381–1000 mm

CHEMICAL COMPOSITION

Element	C	N	A1
Weight %	<0.01	0.004 to 0.007	≤0.007

- *Certain annealed and temper-rolled continuously cast steel,* which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20			0.03					0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming, 0.018 Max.)		0.08 (Aiming 0.05)	0.02	0.08		0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides <1 micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA microinches (micrometers)		
	Aim	Min.	Max.
Extra Bright	5(0.1)	0(0)	7(0.2)

• *Certain annealed and temper-rolled cold-rolled continuously cast steel,* in coils, with a certificate of analysis per Cable System International (''CSI'') Specification 96012, with the following characteristics:

Element	C	Mn	P	S
Max. Weight D0.13	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Base Weight	55 pounds
Theoretical Thickness	0.0061 inch (+/ – 10 % of theoretical thickness)
Width	787 mm to 813 mm
Tensile Strength	45,000–55,000 psi
Elongation	minimum of 15 % in 2 inches

• *Concast cold-rolled drawing quality sheet steel,* ASTM a–620–97, Type B, or single reduced black plate, ASTM A–625–92, Type D, T–1, ASTM A–625–76 and ASTM A–366–96, T1–T2–T3 Commercial bright/luster 7a both sides, RMS 12 max. Thickness range of 0.0088 to 0.038 inches, width of 23.0 inches to 36.875 inches.

• *Certain single reduced black plate,* meeting ASTM A–625–98 specifications, 53 pound base weight (0.0058 inch thick) with a Temper classification of T–2 (49–57 hardness using the Rockwell 30 T scale).

• *Certain single reduced black plate,* meeting ASTM A–625–76 specifications, 55 pound base weight, MR type matte finish, TH basic tolerance as per A263 trimmed.

• *Certain single reduced black plate,* meeting ASTM A–625–98 specifications, 65 pound base weight (0.0072 inch thick) with a Temper classification of T–3 (53–61 hardness using the Rockwell 30 T scale).

• *Certain cold-rolled black plate bare steel strip,* meeting ASTM A–625 specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P S	
Max. Weight %	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness	0.0058 inch ± 0.0003 inch
Hardness	T2/HR 30T 50—60 aiming
Elongation	≥ 15 %
Tensile Strength	51,000.0 psi ± 4.0 aiming

• *Certain cold-rolled black plate bare steel strip,* in coils, meeting ASTM A–623, Table II, Type MR specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S
Max. Weight %	0.13	0.60	0.04	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness	0.0060 inch (±0.0005 inch)
Width	10 inches (+¼ to ⅜ inch/-0)
Tensile Strength	55,000 psi max.
Elongation	Minimum of 15% in 2 inches

• *Certain ''blued steel'' coil* (also known as ''steamed blue steel'' or ''blue oxide''), with a thickness of 0.30 mm to 0.42 mm and width of 609 mm to 1219 mm, in coil form;

• *Certain cold-rolled steel sheet,* coated with porcelain enameling prior to importation, which meets the following characteristics:
Thickness (nominal): ≤ 0.019 inch
Width: 35 to 60 inches

CHEMICAL COMPOSITION

Element	C	O	B
Max. Weight %	0.004		
Min. Weight %		0.010	0.012

• *Certain cold-rolled steel,* which meets the following characteristics
Width: > 66 inches

CHEMICAL COMPOSITION

Element	C	Mn	P	Si
Max. Weight %	0.07	0.67	0.14	0.03

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.800—2.000
Min. Yield Point (MPa)	265
Max. Yield Point (MPa)	365
Min. Tensile Strength (MPa)	440
Min. Elongation %	26

• *Certain band saw steel,* which meets the following characteristics:
Thickness: ≤ 1.31 mm
Width: ≤ 80 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cr	Ni
Weight %	1.2 to 1.3	0.15 to 0.35	0.20 to 0.35	≤0.03	≤0.007	0.3 to 0.5	≤0.25

Other properties:
Carbide: Fully spheroidized having > 80 % of carbides, which are ≤ 0.003 mm and uniformly dispersed
Surface finish: Bright finish free from pits, scratches, rust, cracks, or seams
Smooth edges.
Edge camber (in each 300 mm of length): ≤ 7 mm arc height
Cross bow (per inch of width): 0.015 mm max.
• *Certain transformation-induced plasticity (TRIP) steel,* which meets the following characteristics:

Variety 1

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.09	1.0	0.90
Max. Weight %	0.13	2.1	1.7

PHYSICAL AND MECHANICAL PROPERTIES

Thicknes range (mm)	1.000—2.300 (inclusive)
Min. Yied Point (MPa)	320
Max. Yied Point (MPa)	480
Min. Tensile Strength (MPa)	590
Min. Elongation %	24 (if 1.000—1.199 thickness range) 25 (if 1.200—1.599 thickness range) 26 (if 1.600—1.999 thickness range) 27 (if 2.000—2.300 thickness range)

Variety 2

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.12	1.5	1.1
Max. Weitht %	0.16	2.1	1.9

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.000–2.300 (inclusive)
Min. Yied Point (MPa)	340
Max. Yied Point (MPa)	520
Min. Tensile Strength (MPa)	690

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Min. Elongation %	21 (if 1.000–1.199 thickness range) 22 (if 1.200–1.599 thickness range) 23 (if 1.600–1.999 thickness range) 24 (if 2.000–2.300 thickness range)

Variety 3

CHEMICAL COMPOSITION

Element %	C	Si	Mn
Min. Weight %	0.13	1.3	1.5
Max. Weitht %	0.21	2.0	2.0

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.200–2.300 9inclusive)
Min. Yield Point (MPa)	370
Max Yield Point (MPa)	570
Min. Tensile Strength (MPa)	780
Min. Elongation %	18 (if 1.200–1.599 thickness range) 19 (if 1.600–1.999 thickness range) 20 (if 2.000–2.300 thickness range)

- *Certain cold-rolled steel,* which meets the following characteristics:

Variety 1

CHEMICAL COMPOSITION

Element	C	Mn	P	Cu
Min. Weight %				0.15
Max. Weight %	0.10	0.40	0.10	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.600–0.800
Min. Yield Point (MPa)	185
Max. Yield Point (MPa)	285
Min. Tensile Strength (MPa)	340
Min. Elongation %	31 (ASTM standard 31% = JIS standard 35%)

Variety 2

CHEMICAL COMPOSITION

Element	C	Mn	P	Cu
Min. Weight %				0.15
Max. Weight %	0.05	0.40	0.08	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.800–1.000
Min. Yield Point (MPa)	145
Max. Yield Point (MPa)	245
Min. Tensile Strength (MPa)	295
Min. Elongation %	31 (ASTM standard 31% = JIS standard 35%)

Variety 3

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cu	Ni	Al	Nb, V, Ti, B	Mo
Max. Weight %	0.01	0.05	0.40	0.10	0.023	0.15–0.35	0.35	0.10	0.10	0.30

PHYSICAL AND MECHANICAL PROPERTIES

Thickness (mm)	0.7
Elongation %	≥35

• *Porcelain enameling sheet,* drawing quality, in coils, 0.014 inch in thickness, + 0.002, −0.000, meeting ASTM A–424–96 Type 1 specifications, and suitable for two coats.
• *Cold-rolled steel strip to specification SAE 4130,* with the following characteristics:
HTSUS item number 7226.92.80.50
Width up to 24 inches
Gauge of ''0.050—0.014 inches,'' and gauge tolerance of +/−0.0018 inches
• *Texture-rolled steel strip (SORBITEX),* with the following characteristics:
Thickness: 0.0039 to 0.0600 inches
Width: 0.1180 to 7.8700 inches (3–200 mm)

CHEMICAL COMPOSITION

C	Si	Mn	P	S	Al	Cr	Ni	Cu
0.76–0.96%	0.10–0.35%	0.30–0.60%	< .025%	< .020%	< .060%	< .30%	< .20%	< .20%

Tensile strength ranges:245,000 to 365,000 psi.
HTSUS 7211.29.20.30 and HTSUS 7211.29.45.00
• *Reed steel,* with the following characteristics:
Grades Eberle 18, 18C (SAE 1095 modified alloyed steel)
HTSUS 7211.90.00

PHYSICAL CHARACTERISTICS

Thickness	0.0008 to 0.04 inches (0.0203 to 1.015 mm)
Width	0.276 to 0.472 inches (7 mm to 12.0 mm), with width tolerances of +/−0.04 to 0.06 mm
Tensile strength	1599 Mpa to 2199 Mpa

CHEMICAL COMPOSITION

C	Si	Mn	P	S	Cr
0.95–1.05%	0.15–0.30	.025–0.50%	less than 0.015%	less than 0.012%	less than 0.40%

Surface: Rmax 1.5 to 3.0 micrometers
Straightness: Max. deviation of 0.56mm/m
Flatness: Deviation of 0.1 to 0.3% of the width
• Feeler gauge steel, with the following characteristics:
Polished surface and deburred or rounded edges
Grades Eberle 18, 18C (SAE 1095 modified alloyed steel)
HTSUS 7211.90.00

PHYSICAL AND MECHANICAL PROPERTIES

Max. width	0.4975 inches
Thickness Range	0.001–0.045 inches
Thickness tolerances	T2–T4 international standard
Tensile strength UTS	246–304 ksi

• *Wood Band Saw Steel with Nickel Content Exceeding 1.25% by Weight,* with the following characteristics:
Both variety 1 and variety 2 are classified under HTSUS item number 7226.99.00.00

Variety #1

Nickel-alloyed Band Saw Steel, which meets the following characteristics:
Thickness: >1.1 mm, ≤3.00 mm
Width: < 400 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cr	Ni	Cu	Al
Weight %	0.70–0.80	0.20–0.35	0.30–0.45	max. 0.020	max. 0.006	0.05–0.20	1.90–2.10	max. 0.15	0.02–0.04

Microstructure: Tempered Martensite with Bainite, no surface decarburization.
Mechanical Properties:
Hardness: 446 +12/−23 HV respectively 45 +1/−2 HRC
Surface Finish: bright, polished
Edges: treated edges
Cross Bow: max. 0.1 mm per mm width

Variety #2

UHB15N20 band saw steel according to the alloy composition:

CHEMICAL COMPOSITION

Element Weight %	C 0.70–0.80	Si 0.20–0.35	Mn 0.30–0.45	P max. 0.020	S max. 0.016	Cr	Ni 1.90–2.10

Typical material properties: Hardened and tempered
Tensile Strength: 1450 N/mm^2 for thickness < 2 mm and 1370 N/mm^2 for thickness > 2 mm
Width tolerance: B1 = +/−0.35 mm
Thickness tolerance: T1(+/−0.039 mm)
Flatness: P4 (max. deviation 0.1% of width of strip)
Straightness: (+/−0.25 mm/1000 mm)
Dimensions:
Widths: 6.3–412.8 mm
Thickness: 0.40 to 3.05 mm
• *2% nickel T5 tolerances and ra less than 8 my,* with the following characteristics:
Thickness: 0.5–3.5 mm
Width: 50–650 mm

CHEMICAL COMPOSITION

Element Weight % in	C 0.70–0.08	Si 0.15–0.35	Mn 0.30–0.05	P max. 0.020	S max. 0.010	Al max. −0.020	Cr 0.05–0.030	Ni 1.90–0.020

High precision T5 tolerance
Roughness: Ra (RMS) max. 8 inches
The product is classified under HTSUS item number 7226.92.50.00
• *Ski-edge profile steel,* with the following characteristics:
For both Grade SAE 1070 and German Grade SAE X35CrMo17:
HTSUS item numbers 7228.60.80 and 7216.69.00
Hardened and tempered, HRC 44–52
Surface: bright finished, sandblasted or primer coated
Stamped condition

DIMENSIONS

	Width mm	Width mm	Thickness mm	Thickness mm
Ski 39	6	1.90	2	0.50
Ski 40	6	1.70	2	0.50
Ski 129	7.70	2.00	2.20	0.60

CHEMICAL COMPOSITION FOR GRADE SAE 1070

Element % in Weight	C 0.65–0.75	Si max. 0.40	Mn max. 0.60–0.90	P max. 0.04	S max. 0.05

CHEMICAL COMPOSITION FOR GERMAN GRADE SAE ×35CRMO17

Element % in Weight	C 0.33–0.45	Si max. 1.0	Mn max. 1.50	P max. 0.04	S max. 0.025	CR 15.5–17.5	Mo 0.8–1.3	Ni max. 1.0

Note that this is an angle shape or section steel that is not covered by this scope.
• *Flat wire,* with the following characteristics:
SAE 1074 alloyed, annealed, skin passed
Hardened and tempered
Formed edges
Widths of less than 12.7 mm
Thickness from 0.50–2.40 mm
• *Shadow/aperture mask steel,* which is Aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, and meets the following characteristics:
Thickness: 0.001 to 0.010 inch
Width: 15 to 35 inches
Increased tensile strength of 800 to 1,200 N/mm^2

CHEMICAL COMPOSITION

Element Weight %	C < 0.01%	N 0.01–0.017%	Mn 0.06–0.85%

HTSUS item numbers 7209.18.25.10 or 7211.23.60.75, depending on the width of the material.
• *Grade 13C cement kiln steel,* with the following specifications:

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S

CHEMICAL COMPOSITION—Continued

Weight %	0.65	0.25	0.65	max. 0.020	max. 0.010

Microstructure: Fine grained and homogenous. Matrix of tempered martensite with a small amount of undissolved carbides
Decarburization: No free ferrit is allowed; Total decarburization should not exceed 4% per plane
Mechanical Properties: Tensile strength: 1200–1700 N/mm², (Standard 1280 +/ − 80 N/mm²)
Surface Finish: Gray hardened condition. Ra/CLA—max. 0.25 m. Cut off 0.25 mm Rmax—max. 2.5 m
Edge Condition: Slit edges free from cracks and damages
Dimensions:
Thickness: 0.4–1.40 mm, Tolerance: T1
Width: 250–1200 mm, Tolerance: B1
Flatness: Unflatness Across Strip: max. 0.4% of the nominal strip width
Coil Size: Inside Diameter: 600 mm
Coil Weight: max. 6.5 kg/mm strip width

- *Certain valve steel (type 2),* with the following specifications: Hardened tempered high-carbon strip, characterized by high fatigues strength and wear resistance, hardness combined with ductility, surface and end-finishes, and good blanking and forming properties.

HTSUS item number: 7211.90.00.00
Typical size ranges:
Thickness: 0.15–1.0 mm
Width: 10.0–140 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Ni	Cr
Weight %	0.7–0.8	0.2–0.35	0.3–0.45	Max. 0.020	Max. 0.016	1.9–2.1	

The merchandise subject to this investigation is typically classified in the HTSUS at item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000. 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS item numbers are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. 02–18293 Filed 7–18–02; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-826]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Paige Rivas at (202) 482-0651, or Mark Manning at (202) 482-5253, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references 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 to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from India are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From India*, 67 FR 31218 (May 9, 2002) (*Preliminary Determination*). *See* also *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. We gave interested parties an opportunity to comment on the preliminary determination.. With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Scope Appendix - Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea''

(*Preliminary Scope Rulings*), which is on file in the Central Records Unit (CRU), room B-099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002.

We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted.

Critical Circumstances

In letters filed on December 7, 2001, and January 14, 2002, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of cold-rolled steel from India and other countries. On April 18, 2002, the Department published in the **Federal Register** its preliminary determination that critical circumstances exist for imports of cold-rolled steel from India and other countries. *See Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157 (April 18, 2002) and Memorandum from Bernard Carreau to Faryar Shirzad, ''Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Australia, India, the Netherlands, and the Republic of Korea Preliminary Affirmative Determinations of Critical Circumstances,'' dated April 10, 2002.

We received no comments from the petitioners or the respondent regarding our preliminary finding that critical circumstances exist for imports of cold-rolled steel from India. Therefore, we have not changed our determination and continue to find that critical circumstances exist for imports of cold-rolled steel from India. Regarding the other countries for which we preliminarily found affirmative critical circumstances, we will make final determinations concerning critical circumstances for these countries when we make our final dumping determinations in those investigations.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the ''Scope Appendix'' attached to the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, published concurrently with this notice. For a complete discussion of the comments received on the *Preliminary Scope Rulings*, *see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Analysis of Comments Received

As noted above, there were no case or rebuttal briefs submitted in this investigation, nor was there a hearing.

Use of Facts Available

In the Preliminary Determination, the Department applied total adverse facts available to the mandatory respondent, Ispat Industries, Ltd. (Ispat). Specifically, the Department assigned Ispat the rate of 153.65 percent, the rate derived from the petition. *See Initiation Notice*. Also, the Department applied the petition margin of 153.65 percent as the ''all others'' rate. The interested parties did not object to the use of adverse facts available, nor to the Department's choice of facts available. For this final determination, we are continuing to apply total adverse facts available to Ispat.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of cold-rolled steel from India that are entered, or withdrawn from warehouse, for consumption on or after February 9, 2002, which is 90 days prior to the date the *Preliminary Determination* was published in the **Federal Register**, because of our affirmative critical circumstances finding in accordance with section 735(a)(3) of the Act. Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period July 1, 2000 through June 30, 2001:

Manufacturer/Exporter	Margin (percent)
Ispat	153.65
All Others	153.65

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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 an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–18294 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–859]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley at (202) 482–0666, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations codified at 19 CFR Part 351 (2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Japan are being, or are likely to be sold, in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Japan*, 67 FR 31222 (May 9, 2002) (*Preliminary Determination*). This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted. With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Scope Appendix - Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099). We gave parties until June 20, 2002 to comment on the preliminary scope rulings, and until June 27, 2002 to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request. At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation, as well as final decisions on all of the scope exclusion requests submitted in the context of the concurrent cold-rolled steel investigations is contained in the ''Scope Appendix'' attached to the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, published concurrently with this notice. For a complete discussion of the comments received on the *Preliminary Scope Rulings*, *see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

Use of Facts Available

In the preliminary determination, the Department applied total adverse facts available to each mandatory respondent. Specifically, the Department assigned the mandatory respondents, Kawasaki Steel Corporation and Nippon Steel Corporation, the rate of 115.22 percent, the highest rate derived from the petition. *See Preliminary Determination*. The Department based the ''all others'' rate on the simple average of the margins in the petition, which is 112.56 percent. The interested parties did not object to the use of adverse facts available, nor to the Department's choice of facts available. Therefore, for this final determination, we are continuing to apply total adverse facts available to each mandatory respondent.

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of cold-rolled steel from Japan that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 (the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist:

Manufacturer/Exporter	Margin (percent)
Kawasaki Steel Corporation	115.22
Nippon Steel Corporation	115.22
All Others	112.56

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threatening material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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 351.305. Timely 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 an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–18295 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-819]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey at (202) 482–2312, or Elfi Blum at (202) 482–0197, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Thailand are being, or are likely to be sold, in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Thailand*, 67 FR 31261 (May 9, 2002) (*Preliminary Determination*). This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted. With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 67 FR 31181 (May 9, 2002) (Scope Appendix - Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099). We gave parties until June 20, 2002 to comment on the preliminary scope rulings, and until June 27, 2002 to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

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[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corp., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

At the request of multiple respondents, a hearing with respect to the *Preliminary Scope Rulings* was held on July 1, 2002.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation, as well as final decisions on all of the scope exclusion requests submitted in the context of the concurrent cold-rolled steel investigations is contained in the ''Scope Appendix'' attached to the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, published concurrently with this notice. For a complete discussion of the comments received on the *Preliminary Scope Rulings*, see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

Use of Facts Available

In the *Preliminary Determination*, the Department applied total adverse facts available to the sole mandatory respondent, Thai Cold-Rolled Steel Sheet Public Company, Limited (TCR). Specifically, the Department assigned TCR the rate of 142.78 percent, which was derived from the highest rate in the amended petition. *See Preliminary Determination*, 67 FR at 31262. The Department based the ''all others'' rate on the simple average of the margins in the amended petition, which is 127.44 percent. The interested parties did not object to the use of adverse facts available, nor to the Department's choice of facts available. Therefore, for this final determination, we are continuing to apply total adverse facts available to the mandatory respondent.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of cold-rolled steel from Thailand that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 (the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist:

Manufacturer/Exporter	Margin (percent)
Thai Cold-Rolled Steel Sheet Public Company, Limited	142.78
All Others	127.44

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threatening material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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 351.305. Timely 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 an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–18296 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–807]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Sweden

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 19, 2002.

FOR FURTHER INFORMATION CONTACT: Jim Terpstra at (202) 482–3965 or Jim Neel at (202) 482–3146 AD/CVD Enforcement Office VI, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references 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 to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Sweden are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Sweden*, 67 FR 31251 (May 9, 2002) (*Preliminary Determination*). *See* also *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled*

Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

We gave interested parties an opportunity to comment on the preliminary determination. Bohler-Uddeholm was the only party to submit case briefs in this proceeding, and all of these pertained to the scope segment of the investigation. All timely scope-related comments are on the record, but will be addressed in the *Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea* (scope memorandum).

On June 28, 2002, Bohler-Uddeholm submitted a case brief on the record of the investigation, however this brief contained only scope comments. The deadline for submitting case briefs with respect to scope issues was June 20, 2002 and rebuttal comments on scope were due June 27, 2002. On July 3, the petitioners filed a request that the Department reject the June 28 Bohler-Uddeholm brief as untimely. Because Bohler-Uddeholm's June 28 submission contained only scope comments, we rejected the comments as untimely filed and did not retain it on the record of this proceeding. *See* the memo to the file regarding the Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Sweden, dated July 2, 2002.

The Department did not receive any comments regarding our preliminary determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Using company-specific export data for the period of investigation (POI), based on the Harmonized Tariff Schedules of the United States (HTSUS) number that corresponds to the subject merchandise, we obtained information from a variety of sources and found that sixteen producers/exporters may have exported cold-rolled steel to the United States during the POI. According to data on the record, SSAB Svenskt Stal AB (SSAB) represented a significantly large percent of the imports during the POI. Due to limited resources, we determined that we could only investigate this one largest producer/exporter. *See Respondent Selection Memo*.

We designated SSAB as the mandatory respondent and sent it the antidumping questionnaire. On December 7, 2001, SSAB stated that it did not intend to participate in this investigation. On December 7, 2001 we selected AB Sandvik Steel as a voluntary respondent pursuant to 19 CFR section 351.204(d)(2). *See Preliminary Determination*[1], 67 FR at 31253.

Period of Investigation

The POI is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the ''Scope Appendix'' attached to the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, published concurrently with this notice. For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the scope memorandum dated July 10, 2002, which is on file in the CRU.

[1] After Sandvik informed the Department that it would not participate in this investigation, Sandvik requested the removal of its submissions from the record of this proceeding. In a letter to Sandvik dated April 25, 2002, the Department certified the removal and destruction of all proprietary copies of Sandvik's questionnaire responses. Additionally, the Department informed Sandvik that its withdrawal from the investigation would result in the use of facts available pursuant to section 776 of the Act.

Use of Facts Available (FA)

In the *Preliminary Determination*, the Department applied total adverse facts available to the sole mandatory respondent SSAB and the one voluntary respondent, Sandvik. Specifically, the Department assigned the sole mandatory respondent and the one voluntary respondent the rate of 40.54 percent, the rate derived from the petition. *See Preliminary Determination*, 67 FR at 31253–54. The Department also applied the petition margin of 40.54 as the ''all others'' rate, as a result of no other rate being available. The interested parties did not object to the use of adverse facts available, nor to the Department's choice of facts available. For this final determination, we are continuing to apply total adverse facts available to SSAB and Sandvik.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend the liquidation of all entries of certain cold-rolled steel from Sweden that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the Preliminary Determination in the Federal Register. S*ee Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Sweden*, 67 FR 31251 (May 9, 2002). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
SSAB Svenskt Stal AB ...	40.54
AB Sandvik Steel	40.54
All Others	40.54

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department

will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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 351.305. Timely 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 an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

DATED: July 10, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–18297 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–025. *Applicant:* Lawrence Berkeley National Laboratory, One Cyclotron Road, Procurement M/S 937–200, Berkeley, CA 94720. *Instrument:* Electron Microscope, Model Tecnai G^2 F20 U–TWIN STEM. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* The instrument is intended to be used to understand chemical composition and electronic bonding at the nanoscale. Materials to be investigated are metals, ceramics, semiconductors and superconductors. *Application accepted by Commissioner of Customs:* June 13, 2002.

Docket Number: 02–026. *Applicant:* University of North Carolina at Chapel Hill, Department of Physics & Astronomy, CB# 3255, Chapel Hill, NC 27599–3255. *Instrument:* Electron Microscope, Model JEM–2010F FasTEM. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used to study carbon nanotubes and other nanostructured materials such as diamond thin films to (1) reveal the atomics structure and the morphological evolutions of carbon nanotubes produced under various different conditions and (2) manipulate the structures in situ to achieve the desired properties and performance. *Application accepted by Commissioner of Customs:* June 21, 2002.

Docket Number: 02–27. *Applicant:* Pennsylvania State University, 195 Materials Research Institute Building, University Park, PA 16802. *Instrument:* Electron Microscope, Model JEM–2010F FasTEM. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used to study an array of interfacial dopants by systematically varying dopant effective charge, ionic radius and electronegativity. The structure and chemistry of materials from the atomic to nanometer length scales will be studied, with particular emphasis on the structure of material defects. Experiments to be conducted include: (1) Quantification of interfacial segregation in oxide ceramics and correlation of segregation with interface crystallography, (2) high-resolution imaging of carbon nanotubes and (3) phase identification of catalysts. *Application accepted by Commissioner of Customs:* June 24, 2002.

Docket Number: 02–28. *Applicant:* University of Minnesota, Department of Geology & Geophysics, 310 Pillsbury Drive SE, ste 108, Minneapolis, MN 55455. *Instrument:* High-Pressure/High-Temperature Materials Testing Apparatus with Torsion Module. *Manufacturer:* Australian Scientific Instruments Pty Ltd, Australia. *Intended Use:* The instrument is intended to be used to study the mechanical properties of rocks and silicate minerals and to investigate the strength of the minerals olivine, clinopyroxene, plagioclase and enstatite to temperatures of 1650 K, to hyrdrostatic pressure of 700 Mpa, and to uniaxial loads of 100 kN. Both compressive creep and triaxial torsion experiments will be carried out on rocks with very low strengths. Also, experiments will be carried out on rock and mineral samples jacketed in iron tubing, and to study the rate of melt migration through partially molten rocks and the rate of hydrogen diffusion into silicate minerals, particularly olivine. The instrument will also be used for educational purposes in the following courses: (1) Solid-Earth Geophysics III: Rock and Mineral Physics and (2) Geodynamics II: The Fluid Earth. *Application accepted by Commissioner of Customs:* June 30, 2002.

Docket Number: 02–29. *Applicant:* University of Delaware, 223 Sharp Lab, Newark, DE 19716. *Instrument:* Electron Microscope, Model JEM–3010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used in microstructural investigations of magnetic materials such as FePt, CoPt, SmCo and NdFeB to develop an understanding of the effect of process parameter on the magnetic materials being developed for permanent magnet and magnetic recording technologies. *Application accepted by Commissioner of Customs:* July 3, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–18292 Filed 7–18–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0010]

Federal Acquisition Regulation; Submission for OMB Review; Progress Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0010).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved

information collection requirement concerning progress payments. A request for public comments was published in the **Federal Register** at 67 FR 34683, on May 15, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit on or before August 19, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeremy F. Olson, Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Certain Federal contracts provide for progress payments to be made to the contractor during performance of the contract. The requirement for certification and supporting information are necessary for the administration of statutory and regulatory limitation on the amount of progress payments under a contract. The submission of supporting cost schedules is an optional procedure that, when the contractor elects to have a group of individual orders treated as a single contract for progress payments purposes, is necessary for the administration of statutory and regulatory requirements concerning progress payments.

B. Annual Reporting Burden

Respondents: 27,000.
Responses Per Respondent: 32.
Annual Responses: 864,000.
Hours Per Response: .55.
Total Burden Hours: 475,000.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0010, Progress Payments, in all correspondence.

Dated: July 16, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–18304 Filed 7–18–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Summer Study will meet in closed session on August 5–16, 2002, at the Beckman Center, Irvine, CA. At these meetings, the Defense Science Board will discuss interim findings and recommendations resulting from two ongoing Task Force activities: Missile Defense and Special Operations and Joint Forces in Support of Countering Terrorism.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Board will develop recommendations that help guide the ballistic missile defense system (BMDS) toward a fully integrated, layered defense capable of defeating ballistic missiles in any phase of their flight by examining five areas: Counter-countermeasures; boost phase technology; battle management and command, control, and communications; international cooperation; and the evolution of ballistic missile threats.

The Board will also review all elements of the future joint force, including Special Operation Forces that can contribute to military campaigns. They will address how to: Enhance and best integrate information, maneuver and fires (kinetic and other, lethal and otherwise); deploy, sustain and protect the joint force in these missions, particularly in remote locations and in the face of counter-access measures; and, exploit and leverage the contributions of coalition partners both traditional (e.g., NATO allies) and non-traditional (e.g., that Afghan Northern Alliance). The Board will then recommend steps to pursue and implement the new and enhanced operational capabilities it identifies.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public

Dated: July 12, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–18187 Filed 7–18–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Inland Waterways Users Board; Request for Nominations

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: Section 302 of the Public Law 99–662 established the Inland Waterways Users Board. The Board is an independent Federal advisory committee. The Secretary of the Army appoints its 11 members. This notice is to solicit nominations for seven (7) appointments or reappointments to two-year terms that will begin January 1, 2003.

ADDRESSES: Office of the Assistant Secretary of the Army (Civil Works), Department of the Army, Washington, DC 20310–0103. Attention: Inland Waterways Users Board Nominations Committee.

FOR FURTHER INFORMATION CONTACT: Office of the Assistant Secretary of the Army (Civil Works) (703) 697–8986.

SUPPLEMENTARY INFORMATION: The selection, service, and appointment of Board members are covered by provisions of Section 302 of Public Law 99–662. The substance of those provisions is as follows:

a. Selection. Members are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways to represent geographical regions, and to be representative of waterborne commerce as determined by commodity ton-miles statistics.

b. Service. The Board is required to meet at least semi-annually to develop and make recommendations to the

Secretary of the Army on waterways construction and rehabilitation priorities and spending levels for commercial navigation improvements, and report its recommendations annually to the Secretary and Congress.

c. Appointment. The operation of the Board and appointment of its members are subject to the Federal Advisory Committee Act (Pub. L. 92–463, as amended) and departmental implementing regulations. Members serve without compensation but their expenses due to Board activities are reimbursable. The considerations specified in Section 302 for the selection of the Board members, and certain terms used therein, have been interpreteted, supplemented, or otherwise clarifeid as follows:

(1) Carriers and Shippers. The law uses the terms ''primary users and shippers.'' Primary users have been interpreted to mean the providers of transportation services on inland waterways such as barge or towboat operators. Shippers have been interpreted to mean the purchasers of such services for the movement of commodities they own or control. Individuals are appointed to the Board, but they must be either a carrier or shipper, or represent a firm that is a carrier or shipper. For that purpose a trade or regional association is neither a shipper or primary user.

(2) Geographical Representation. The law specifies ''various'' regions. For the purpose of selecting Board members, the waterways subjected to fuel taxes and described in Public Law 95–502, as amended, have been aggregated into six regions. They are (1) the Upper Mississippi River and its tributaries above the mouth of the Ohio; (2) the Lower Mississippi River and its tributaries below the mouth of the Ohio and above Baton Rouge; (3) the Ohio River and its tributaries; (4) the Gulf intracoastal Waterway in Louisiana and Texas; (5) the Gulf Intracoastal Waterway east of New Orleans and associated fuel-taxed waterways including the Tennessee-Tombigbee, plus the Atlantic Intracoastal Waterway below Norfolk; and (6) the Columbia-Snake Rivers System and Upper Willamette. The intent is that each region shall be represented by at least one Board member, with that representation determined by the regional concentration of the individual's traffic on the waterways.

(3) Commodity Representation. Waterway commerce has been aggregated into six commodity categories based on ''inland'' ten-miles shown in Waterborne Commerce of the United States. These categories are (1) Farm and Food Products; (2) Coal and Coke; (3) Petroleum, Crude and Products; (4) Minerals, Ores, and Primary Metals and Mineral Products; (5) Chemicals and Allied Products; and (6) All other. A consideration in the selection of Board members will be that the commodities carried or shipped by those individuals or their firms will be reasonably representative of the above commodity categories.

d. Nomination. Reflecting preceding selection criteria, the current representation by the seven (7) Board members whose terms expire December 31, 2002 is one member representing region 1, one member representing region 2, two members representing region 3, one member representing region 4, one member representing region 5, and one member representing region 6. Also, these Board members represent five carriers, one shipper, and one shipper/carrier. Two of the seven members whose terms expire December 31, 2002, are eligible for reappointment. Nominations to replace Board members whose terms expire December 31, 2002, may be made by individuals, firms or associations. Nominations will:

(1) State the region to be represented.

(2) State whether the nominee is representing carriers, shippers or both.

(3) Provide information on the nominee's personal qualifications.

(4) Include the commercial operations of the carrier and/or shipper with whom the nominee is affiliated. This commercial operations information will show the actual or estimated ton-miles of each commodity carried or shipped on the inland waterways system in a recent year (or years) using the waterway regions and commodity categories previously listed.

Nominations received in response to last year's **Federal Register** notice (66 FR 36757) published on July 13, 2001 have been retained for consideration. Renomination is not required but may be desirable.

e. Deadline for Nominations. All nominations must be received at the address shown above no later than August 31, 2002.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–18274 Filed 7–18–02; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Army

Armament Retooling and Manufacturing Support Executive Advisory Committee; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Executive Advisory Committee (EAC). The EAC encourages the development of new and innovative methods to optimize the asset value of the Government-Owned, Contractor-Operated ammunition industrial base for peacetime and national emergency requirements, while promoting economical and efficient processes at minimal operating costs, retention of critical skills, community economic benefits, and a potential model for defense conversion. The U.S. Army, Operations Support Command, will host this meeting. The purpose of the meeting is to update the EAC and public on the status of ongoing actions, new items of interest, and suggested future direction/actions. Topics for this meeting will include: ARMS Loan Program; Effects of TIM on Consideration; Security Issues; and Arsenal Support Program Initiative Update. This meeting is open to the public.

Date of Meeting: August 28–29, 2002.

Place of Meeting: Isle of Capri Hotel, 1777 Isle Parkway, Bettendorf, IA 52722.

Time of Meeting: 8:30 a.m.–5 p.m. on August 28 and 7:30 a.m.–12 p.m. on August 29.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Perez, U.S. Army Operations Support Command, and Attn: AMSOS–CCM–I, Rock Island Arsenal, IL 61299, phone (309) 782–3360.

SUPPLEMENTARY INFORMATION: A block of rooms has been reserved at the Isle of Capri Hotel for the nights of August 27–28, 2002. The Isle of Capri Hotel is located at 1777 Isle Parkway, Bettendorf, Iowa 52722, local phone (563) 359–7280. Please make your reservations by calling 800–724–5825. Be sure to mention the guest code acronym ARMS Meeting. Reserve your room prior to August 8th to get the Government Rate of $55.00 a night. Also notify this office of your attendance by notifying Mike Perez, *perezm@osc.army.mil,* and (309) 782–3360 (DSN 793–3360). *To insure adequate arrangements (transportation,*

conference facilities, etc.) for all attendees, we request your attendance notification with this office by August 8, 2002. Corporate casual is meeting attire.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–18273 Filed 7–18–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Lake Okeechobee Aquifer Storage and Recovery Pilot Project at Three Sites Adjacent to Lake Okeechobee, With Components in Martin, Okeechobee, and Glades Counties, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), intends to prepare an integrated Pilot Project Design Report and Draft Environmental Impact Statement (DEIS) for the Lake Okeechobee Aquifer Storage and Recovery (ASR) Pilot Project. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperating agency for this DEIS. One of the recommendations of the final report of the Central & South Florida (C&SF) Comprehensive Review Study (Restudy) was the Lake Okeechobee ASR Pilot Project. This project will determine the feasibility of using ASR technology for water storage and the treatment regimes needed for an operational ASR well system. It will also collect scientific data to address the uncertainties associated with the ASR technology and for future optimization and design studies.

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca Weiss, U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019, telephone (904) 899–5025.

SUPPLEMENTARY INFORMATION:

a. Authorization: Section 101(a)(16) of the Water Resources Development Act of 1999 (WRDA 1999) (Pub. L. 106–53) authorized construction of two pilot projects, Lake Okeechobee ASR and Hillsboro ASR. Although these two pilot projects were authorized separate from the Central and Southern Florida Project, they are also integral elements of the Comprehensive Everglades Restoration Plan (CERP) as authorized in Title VI of WRDA 2000 (Pub. L. 105–541, Section 601). Therefore, these two projects were included in the CERP Design Agreement between the Corps and the local sponsor, SFWMD, and required design studies are now proceeding.

b. Project Scope: The Pilot project will determine the feasibility of ASR technology for water storage at each site, the water quality characteristics of source waters, native subsurface waters and recovered waters, appropriate water treatment requirements, and recommend operational goals for a full scale ASR project at Lake Okeechobee. As proposed, the pilot project would include construction at 3 locations of one ASR well, a surface water intake and discharge system, pre-injection and post recovery water treatment facilities, and other associated piping, treatment systems, and surface facilities. Each ASR well will be used to store and recover freshwater in the upper Floridian Aquifer System. After preliminary analysis of collected data, one site will be chosen for construction of 2 additional ASR wells and associated pumps, piping, water treatment facilities and monitoring wells, in order to test the effects of a multi-well facility.

Operational plans for the test pilot are to collect surface water from adjacent canal or tributaries, treat collected water to applicable drinking water quality standards, and inject water into the Floridian Aquifer System for a minimum of two cycle tests. Each cycle test includes a period of water storage followed by a period of recovery and discharge. Recovered water will be monitored and treated, if needed, to insure compliance with appropriate water quality standards prior to discharge into surface water or canal.

c. Preliminary Alternatives: Formulation of alternative plans will involve the selection of the most suitable site for the ASR wells, surface water collection system configuration, water treatment technologies, investigation of intake and discharge sites, and investigation of best configuration of surface facilities of the project. The DEIS will include an evaluation of adverse environmental impacts, including but not limited to, water quality, socio-economic, archaeological and biological. In addition to adverse impacts, the evaluation will also focus on how well the plans perform with regard to specific technologic performance measures.

d. Issues: The DEIS will consider impacts on water quality, ecosystem habitat, threatened and endangered species, health and safety, aesthetics and recreation, fish and wildlife resources, cultural resources, water availability, flood protection, and other potential impacts identified through scoping, public involvement, and interagency coordination.

e. Scoping: An initial public workshop was held in West Palm Beach on January 2001 to introduce the Lake Okeechobee pilot project plan and gather comments. In addition, a public workshop was held in West Palm Beach on January 2002 to identify public concerns related to ASR technology and regional implementation. A scoping letter will be issued in July 2002 to interested parties. All parties are invited to participate in the scoping process by identifying any additional concern on issues, studies needed, alternatives, procedures, and other matters related to the scoping process. At this time, there is no plan for a public scoping meeting.

f. Public Involvement: We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties.

g. Coordination: The proposed action is being coordinated with the U.S. Fish and Wildlife Services (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the State Historic Preservation Officer.

h. Other Environmental Review and Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; certification of state lands, easements and right of ways, and determination of Coastal Zone Management Act consistency.

i. Agency Role: As the cooperating agency, non-Federal sponsor, and leading local expert, SFWMD will provide information and assistance on the resources to be impacted and alternatives.

j. DEIS Preparation: The integrated Pilot Project Design Report, including a DEIS, is currently estimated for publication in November 2003.

Dated: July 10, 2002.

James C. Duck,

Chief, Planning Division.

[FR Doc. 02–18272 Filed 7–18–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent No. 6,393,327 entitled ''Microelectronic Stimulator Array'', Navy Case No. 82,449.

ADDRESSES: Requests for copies of the patent cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404

Dated: July 12, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–18202 Filed 7–18–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Local Flexibility Demonstration Program: Office of Elementary and Secondary Education, Department of Education; Notice Inviting Applications for the Local Flexibility Demonstration Program

Purpose of the Program: To provide local educational agencies (LEAs) with high-quality local flexibility demonstration proposals an opportunity to enter into local flexibility demonstration agreements (''Local-Flex'' agreements) with the Secretary. The LEAs that the Secretary selects to participate in the Local-Flex program will have the flexibility to consolidate certain Federal formula grant funds in order to assist them in meeting the State's definition of adequate yearly progress and the LEA's specific measurable goals for improving student achievement and narrowing achievement gaps.

Eligible Applicants: LEAs in the following States are eligible to apply for Local-Flex: Alaska, Arkansas, California, Connecticut, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

By statute, the Secretary may enter into Local-Flex agreements with no more than three LEAs in a State. Therefore, any consortium that seeks a Local-Flex agreement may include no more than three LEAs. Furthermore, only LEAs that receive formula grant funds from their State educational agency (SEA) under the Federal programs subject to consolidation may seek Local-Flex authority.

LEAs in the following States may *not* apply at this time because their SEA indicated, by May 8, 2002, an intent to apply for State-Flex authority: Alabama, Arizona, Colorado, Delaware, Florida, Illinois, Massachusetts, Nebraska, Pennsylvania, Tennessee, and Texas. In addition, the District of Columbia, Hawaii, Puerto Rico, and the outlying areas are not eligible to apply for Local-Flex because, for purposes of this program, the legislation considers a state-wide LEA to be an SEA.

Under the legislation, a State generally cannot receive State-Flex authority if one of its LEAs has entered into a Local-Flex agreement with the Secretary. If an LEA enters into a Local-Flex agreement with the Secretary, its SEA may subsequently seek State-Flex authority only if that LEA agrees to be part of the SEA's State-Flex proposal.

Applications Available: September 17, 2002.

Deadline for Transmittal of Applications: September 17, 2002.

Notification of Intent to Apply for Local-Flex: We will be able to develop a more efficient process for reviewing Local-Flex applications if we have a better understanding of the number of LEAs that intend to seek participation in the program. Therefore, we strongly encourage each potential applicant to send, by August 19, 2002, a notification of its intent to apply for participation in the Local-Flex program to the following address: *LocalFlex@ed.gov.*

The notification of intent to apply for participation in Local-Flex is *optional* and should not include information regarding the potential applicant's Local-Flex proposal. LEAs that fail to provide the notification may still submit an application by the application deadline.

SUPPLEMENTARY INFORMATION: Sections 6151 through 6156 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (P.L. 107–110), authorize the Secretary of Education to enter into local flexibility demonstration agreements (''Local-Flex'' agreements) with up to eighty LEAs. The Secretary will select Local-Flex LEAs on a competitive basis in accordance with the selection criteria contained in a notice published elsewhere in this issue of the **Federal Register**. The application requirements and a description of the application process are also provided in that notice.

The Secretary intends to select up to forty LEAs for participation in Local-Flex under this competition, and will select the remaining LEAs in a subsequent competition.

FOR FURTHER INFORMATION CONTACT: Ms. Milagros Lanauze. Telephone: (202) 401–0039 or via Internet: *LocalFlex@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

Applications: You may obtain a copy of the application on the Department's Web site at: *http://www.ed.gov/flexibility/#prog.*

You may also obtain a copy of the application from the contact person identified under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document

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access at: *www.access.gpo.gov/nara/index.html.*

Program Authority: Sections 6151 through 6156 of the ESEA, as amended by the No Child Left Behind Act of 2001 (P.L. 107–110).

Dated: July 15, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–18306 Filed 7–18–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Local Flexibility Demonstration Program

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

ACTION: Notice of final application requirements, selection criteria, and application process.

SUMMARY: The Secretary announces final application requirements, selection criteria, and the application process for the Local Flexibility (Local-Flex) Demonstration Program.

EFFECTIVE DATE: August 19, 2002.

SUPPLEMENTARY INFORMATION: On February 22, 2002, we published in the **Federal Register** (67 FR 8442–8444) a notice of proposed application requirements, selection criteria, and application process for the Local-Flex program, which is authorized under sections 6151 through 6156 of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110). This notice announces final application requirements, selection criteria, and the application process for the program.

Note: This notice does not solicit applications. A notice inviting applications under the Local-Flex competition is published separately in this issue of the **Federal Register**.

Analysis of Comments and Changes

Four parties submitted various comments in response to the notice of proposed application requirements, selection criteria, and application process.

Comment: One commenter suggested that we revise the language concerning the baseline academic data that local educational agencies (LEAs) would submit with their applications. This commenter suggested that LEAs should provide as their baseline the results under their adequate yearly progress (AYP) definition under the predecessor ESEA.

Discussion: Recognizing that States are in the process of developing State AYP definitions to meet the requirements in the reauthorized ESEA we are requesting LEAs to submit the best available disaggregated baseline data. These data should be based on assessments consistent with section 1111(b)(3) of the predecessor ESEA.

Changes: We have clarified that, in submitting baseline academic data, LEAs must provide student achievement data from assessments consistent with section 1111(b)(3) of the predecessor ESEA.

Comment: One commenter suggested that after revising its goals based on the State's new AYP definition, an LEA should be required to submit its revised goals to the Secretary.

Response: The Secretary had intended that an LEA be required to submit these revised goals as part of a proposed amendment to its Local-Flex agreement.

Changes: We have clarified that an LEA must not only revise its goals, as necessary, after the State develops the State AYP definition, but that it must also submit the revised goals to the Secretary as part of a proposed amendment to its Local-Flex agreement. We have also clarified that LEAs must submit any revised strategies for reaching those goals.

Comment: Two commenters expressed concern about the relationship between LEAs that have entered into Local-Flex agreements and State educational agencies (SEAs) that subsequently seek State-Flex authority under sections 6141 through 6144 of the ESEA. One of the commenters indicated that an SEA seeking State-Flex authority should not be required to incorporate Local-Flex agreements into its State-Flex proposal, and the other commenter said that an LEA should not be forced to incorporate its Local-Flex agreement into its SEA's State-Flex proposal.

Response: Under the legislation, the Secretary may enter into Local-Flex agreements only with LEAs in States that do not have State-Flex authority. Furthermore, if an SEA notified the Secretary, by May 8, 2002, that it intended to apply for State-Flex authority, an LEA in that State is precluded from applying for Local-Flex until the Department makes a final determination concerning the SEA's State-Flex application. The May 8, 2002 notification deadline essentially gave SEAs an opportunity to seek State-Flex before permitting their LEAs to seek Local-Flex authority.

The application process that we described in the February 28, 2002 **Federal Register** notice is consistent with the statutory provisions. Under this process, an SEA initially decided whether it intended to apply for State-Flex authority and to preclude its LEAs from entering into Local-Flex agreements with the Secretary. If an SEA chose not to notify the Department, by May 8, 2002, that it intended to apply for State-Flex, its LEAs may participate in the Local-Flex competition.

Once an LEA in a State has entered into a Local-Flex agreement, an SEA may subsequently receive State-Flex authority only if any LEA in the State with a Local-Flex agreement agrees to be part of the SEA's State-Flex proposal.

Changes: In the notice inviting applications published elsewhere in this issue of the **Federal Register**, we have clarified that if an LEA has entered into a Local-Flex agreement with the Secretary and its SEA later seeks to apply for State-Flex authority, the SEA may not force the LEA to be part of the State-Flex proposal. The SEA may seek State-Flex only if each of its LEAs that has a Local-Flex agreement with the Secretary agrees to be part of the SEA's submission. SEAs and LEAs are encouraged to work cooperatively to minimize potential disputes regarding the implementation of State-Flex and Local-Flex.

Comment: One commenter suggested that applicants be required to submit the following information to enable the Secretary to evaluate whether they are focusing on serving the needs of students most at risk of educational failure: (1) The number and percentage of schools in the district that qualify for schoolwide programs; (2) The amount of local education funds spent per pupil at Title I schools compared to the per-pupil spending at non-Title I schools; and (3) Any formula the district would use to target consolidated Federal funds to students most at risk of education failure.

Discussion: An applicant must submit detailed baseline academic data and specific measurable goals, with annual objectives, that it seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline data that are submitted. In addition, the applicant must propose specific strategies for reaching the stated goals. On the basis of the application requirements and the selection criteria that will be used for this competition, we will be able to focus Local-Flex agreements on LEAs serving the need of students most at risk of educational failure competition.

Changes: None.

Comment: One commenter suggested that each applicant be required to describe how its proposed Local-Flex plan will meet the general purposes of the programs included in the consolidation. This commenter also urged us to require each applicant to document parental involvement in the planning process, to explain how the applicant will continue to comply with all applicable civil rights requirements, and to include in its application a description of the accounting procedures and safeguards that it would employ to ensure proper disbursement of, and accounting for, Federal funds.

Discussion: In the February 22, 2002 **Federal Register** notice, we did not include all of the statutory application requirements. We did not believe that it was necessary to seek public comments on some of the more explicit requirements included in the legislation. However, all of the statutory application requirements, including those addressed in this notice, are discussed in the application package.

The comments referenced in the preceding paragraph concerning parental involvement and fiscal responsibility are addressed in the application package. We have made changes to the application requirements and selection criteria in this notice to address the comment concerning the general purposes of the programs included in the consolidations. With respect to the comment on civil rights compliance, all applicants, as mandated by the legislation, will be required to submit an assurance that they are complying with all applicable civil rights requirements.

Changes: We have modified the application requirements to state expressly that each applicant must, as part of its five-year proposal, describe how it will meet the general purposes of the programs that are consolidated. In addition, we have modified the ''Quality of the Local-Flex Plan'' selection criterion to include a factor relating to the general purposes of the consolidated programs.

Comment: One commenter suggested that under the application requirements, migrant status should be listed as one of the subgroups by which the baseline academic data should be disaggregated.

Discussion: We do not agree because migrant status is not one of the required subgroups for determining AYP under Part A of Title I. Given that an LEA's progress in implementing Local-Flex will be measured on the basis of its AYP status, we believe that it is important to obtain, at a minimum, disaggregated baseline data that reflect the AYP subgroups. While it is not mandatory, applicants may also submit other disaggregated data, such as migrant status, which are required for reporting assessment results under section 1111(b)(3) of the reauthorized ESEA.

Changes: None.

Comment: One commenter suggested that under the ''Quality of the Local-Flex Plan'' selection criteria, we add a factor about the extent to which the LEA included parents in the development of its Local-Flex proposal, particularly parents of subgroups of significant size.

Discussion: We agree that the selection criteria should include a factor relating to parental involvement in the development of the Local-Flex proposals, particularly the parents of students most at risk of educational failure.

Changes: We have modified the ''Quality of the Local-Flex Plan'' criterion to add a factor relating to the involvement of parents, particularly the parents of students most at risk of educational failure, in the development of the Local-Flex proposal.

Comment: One commenter stated that the overall application process should outline a process for reviewing and deciding issues of continued participation in Local-Flex if the LEA does not meet its stated targets for student achievement over a two-to three-year period.

Discussion: The legislation states that the Secretary must, after providing notice and an opportunity for a hearing, promptly terminate a Local-Flex agreement if an LEA fails to make adequate yearly progress for two consecutive years. The legislation also provides that, after providing notice and an opportunity for a hearing, the Secretary may terminate a Local-Flex agreement if there is evidence that an LEA has failed to comply with the terms of the agreement.

The Secretary does not believe that it is necessary to issue, at this time, additional guidance on the termination of a Local-Flex agreement.

Changes: None.

I. Application Requirements

In order that the Secretary can select Local-Flex participants in accordance with section 6151 of the ESEA, Local-Flex applicants must submit the following information, together with the other information set forth in the legislation and outlined in the Local-Flex application package.

(a) *Baseline academic data.* Each LEA seeking to enter into a Local-Flex agreement with the Secretary must provide, as part of its proposed agreement, student achievement data for the most recent available school year, including data from assessments under section 1111(b)(3) of the predecessor ESEA, as well as descriptions of achievement trends. To the extent possible, an LEA must provide data for both mathematics and reading or language arts, and the LEA must disaggregate the results by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged. (These are the categories, among others, by which an LEA will disaggregate data for determining AYP under section 1111(b)(2) of the reauthorized ESEA. Furthermore, these are the categories, among others, by which an LEA had to disaggregate data for reporting assessment results under section 1111(b)(3) of the predecessor ESEA.)

In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, LEAs may also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators should also be disaggregated.

(b) *Specific, measurable education goals.* Each applicant must submit a five-year Local-Flex plan that contains specific, measurable educational goals, with annual objectives, that the LEA seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

At the time an LEA submits its initial proposed Local-Flex agreement, the goals in its proposal will not have to relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as its State definition of AYP is submitted to and approved by the Secretary, each LEA that has entered into a Local-Flex agreement must revise its goals, as necessary, based on that definition. (**NOTE:** State definitions of AYP under section 1111(b)(2) of the ESEA must be submitted no later than January 31, 2003, and implemented by the end of the 2002–2003 school year.) The LEA must submit its revised goals as part of

a proposed amendment to its Local-Flex agreement.

(c) *Strategies for meeting its goals and the general purposes of the consolidated programs.* Each applicant must propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan must describe how the applicant will consolidate and use funds received under Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment); Subpart 1 of Part D of Title II (Enhancing Education Through Technology); Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities); and Subpart 1 of Part A of Title V (Innovative Programs).

As part of its five-year plan, an applicant must also describe how it will meet the general purposes of the programs that are consolidated under the Local-Flex agreement. In particular, an applicant must describe how its proposed plan would—

(i) Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms (Title II, Part A);

(ii) Improve teaching and student academic achievement through the use of technology in schools (Title II, Part D);

(iii) Support programs that prevent violence in and around schools and that prevent the illegal use of alcohol, tobacco, and drugs (Title IV, Part A);

(iv) Support local education reform efforts that are consistent with and support statewide education reform efforts (Title V, Part A).

Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA must modify, as appropriate, the strategies that it would implement to reach its revised educational goals. The LEA must submit these modifications as part of a proposed amendment to its Local-Flex agreement.

II. Selection Criteria

The Secretary will use the following criteria to select the LEAs with which he will enter into Local-Flex agreements:

(a) *Identification of the Need for the Local-Flex Agreement.* (25 points) The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement. In determining the quality of the description and analysis, the Secretary considers the following factors:

(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective, valid, and reliable, and provide disaggregated results.

(ii) The extent to which the proposal identifies achievement gaps among different groups of students.

(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.

(iv) The extent to which the additional flexibility provided under the Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(b) *Quality of the Educational Goals.* (25 points) The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement. In determining the quality of the LEA's goals, the Secretary considers the following factors:

(i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable.

(ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement.

(iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators.

(iv) The extent to which the goals support the intent and purposes of the Local-Flex program.

(c) *Quality of the Local-Flex Plan.* (35 points) The Secretary considers the quality of the LEA's Local-Flex plan. In determining the quality of the Local-Flex plan, the Secretary considers the following factors:

(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.

(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.

(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.

(iv) The extent to which the LEA demonstrates that it will meet the general purposes of the programs that would be consolidated under its Local-Flex agreement;

(v) The extent to which the LEA included parents, especially parents of children most at risk of educational failure, in the development of the Local-Flex proposal.

(d) *Adequacy of the Resources.* (15 points) The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement. In considering the adequacy of the resources, the Secretary considers the following factors:

(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.

(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will be integrated with other resources to meet the goals of the proposed agreement.

(iii) The extent to which costs that the LEA will incur under the Local-Flex agreement are reasonable in relationship to the goals that will be achieved under the agreement.

III. Application Process

The Secretary will conduct two separate Local-Flex competitions. A notice inviting applications for the initial group of Local-Flex LEAs is published elsewhere in this issue of the **Federal Register**. Depending on the number and quality of the applications submitted, the Secretary intends to select up to 40 LEAs with which to enter into Local-Flex agreements during the initial competition. The Secretary will reserve the remaining Local-Flex slots for a subsequent Local-Flex competition.

FOR FURTHER INFORMATION CONTACT: Ms. Milagros Lanauze. Telephone: (202) 401–0039 or via Internet: *LocalFlex@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: Sections 6151 through 6156 of the ESEA, as amended by the No Child Left Behind Act of 2001 (P.L. 107–110).

Dated: July 15, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–18307 Filed 7–18–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, August 1, 2002, 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Discussion and approval of new quarterly update schedule and priorities.
2. End-state discussion on surface water regulatory issues.
3. Review and discuss draft recommendation language: end-state issues related to surface and subsurface soil remediation.
4. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 8:30 a.m. to 4:30 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on July 12, 2002.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 02–18245 Filed 7–18–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–97–000]

East Kentucky Power Cooperative, Inc. v. Louisville Gas and Electric Company and Kentucky Utilities; Notice of Conference

July 15, 2002.

Pursuant to Rule 601 of the Commission's Rules and Practice and Procedure 18 CFR 385.601, the Dispute Resolution Service will convene a Conference on Thursday and Friday, July 25 and 26, 2002, to discuss how Alternative Dispute Resolution processes and procedures may assist the participants in resolving disputes arising in the above docketed proceeding. The conference will be held at the Sheraton Suites Lexington, 2601 Richmond Rd, Lexington, KY (859–268–0060), beginning at 1 p.m. on July 25 and ending approximately 1 p.m. July 26.

Jerrilynne Purdy, acting for the Dispute Resolution Service, will convene the Conference. She will be available to communicate in private with any participant prior to the conference. If a participant has any questions regarding the conference, please call Ms. Purdy at 202–208–2232 or email *jerrilynne.purdy@ferc.gov*. Parties may also communicate with Richard Miles, the Director of the Commission's Dispute Resolution Service at 1–877FERC ADR (337–2237) or email *richard.miles@ferc.gov.*

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18285 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–53–025]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Filing of Refund Report

July 15, 2002.

Take notice that on June 28, 2002, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing a report regarding Kansas ad valorem tax refunds. KMIGT states that this filing is being made in compliance with Commission order issued March 18, 2002 in Docket Nos. RP98–53–024, *et al.* Among other things, that order approved a settlement of these matters and extended the deadline for KMIGT's report to July 1, 2002. KMIGT states that a copy of this filing was served on all intervenors in the subject proceedings, the Appendix B parties, and relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before August 2, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18288 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–410–003 and RP01–8–003]

Mississippi River Transmission Corporation; Notice of Compliance Filing

July 15, 2002.

Take notice that on July 1, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, tariff sheets to comply with the policy directives of the Commission's June 5, 2002 ''Order on Order No. 637 Settlement.''

MRT states that the purpose of this filing is to comply with the Commission's June 5, 2002 Order in Docket Nos. RP00–410–000 and RP01–8–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 19, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18289 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL02–105–000 and EC02–91–000]

UBS AG; Notice of Filing

July 11, 2002.

Take notice that on July 1, 2002, UBS AG (UBS) filed with the Federal Energy Regulatory Commission (Commission) an application requesting that the Commission disclaim jurisdiction over certain acquisitions by UBS in the course of its banking business of securities issued by public utilities. In the alternative, UBS seeks authorization pursuant to Section 203 of the Federal Power Act for such acquisitions

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: July 22, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18286 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–51–005, et al.]

The Detroit Edison Company, et al.; Electric Rate and Corporate Regulation Filings

July 11, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. The Detroit Edison Company

[Docket Nos. EL01–51–005 and ER01–1649–005]

Take notice that on July 3, 2002, The Detroit Edison Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance filing in accordance with the Commission's order in *Detroit Edison Company,* 99 FERC ¶ 61,268 (2002).

Comment Date: July 24, 2002.

2. State of California, ex. rel. Bill Lockyer, Complainant, v. British Columbia Power Exchange Corp., Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Reliant Energy Services, Inc., Williams Energy Marketing & Trading Co., All Other Public Utility Sellers of Energy and Ancillary Services to the California Energy Resources Scheduling Division of the California Department of Water Resources, and All Other Public Utility Sellers of Energy and Ancillary Services into Markets Operated by the California Power Exchange and California Independent System Operator, Respondents

[Docket No. EL02–71–002]

Take notice that on July 8, 2002, PacifiCorp tendered for filing its report showing PacifiCorp's purchases from the California Independent Service Operator (CAISO), California Power Exchange (PX) and California Energy Resources Scheduling Division of the California Department of Water Resources (CDWR) markets for the quarters ending December 31, 2000; March 31, 2001; June 30, 2001; September 30, 2001; December 31, 2001 and March 31, 2002.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: July 29, 2002.

3. State of California, ex. rel. Bill Lockyer, Complainant, v. British Columbia Power Exchange Corp., Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Reliant Energy Services, Inc., Williams Energy Marketing & Trading Co., All Other Public Utility Sellers of Energy and Ancillary Services to the California Energy Resources Scheduling Division of the California Department of Water Resources, and All Other Public Utility Sellers of Energy and Ancillary Services into Markets Operated by the California Power Exchange and California Independent System Operator, Respondents

[Docket No. EL02–71–002]

Take notice that on July 5, 2002, IDACORP Energy L.P. (IDACORP Energy) tendered for filing with the Federal Energy Regulatory Commission (Commission), a supplement report to its June 28, 2002 submittal for Fourth Quarter, 2000 through Fourth Quarter 2001.

Comment Date: July 26, 2002

4. State of California, ex. rel. Bill Lockyer, Complainant, v. British Columbia Power Exchange Corp., Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Reliant Energy Services, Inc., Williams Energy Marketing & Trading Co., All Other Public Utility Sellers of Energy and Ancillary Services to the California Energy Resources Scheduling Division of the California Department of Water Resources, and All Other Public Utility Sellers of Energy and Ancillary Services into Markets Operated by the California Power Exchange and California Independent System Operator, Respondents

[Docket No. EL02–71–002]

Take notice that on July 5, 2002, Strategic Energy L.L.C. tendered for filing with the Federal Energy Regulatory Commission (Commission), new Quarterly Transaction Reports showing non-aggregated data for transactions made during the period October 2, 2000 to the date of the Commission's order issued in this proceeding.

Comment Date: July 26, 2002.

5. UBS AG

[Docket Nos. EL02–105–000 and EC02–91–000]

Take notice that on July 1, 2002, UBS AG (UBS) filed with the Federal Energy Regulatory Commission (Commission) an application requesting that the Commission disclaim jurisdiction over certain acquisitions by UBS in the course of its banking business of securities issued by public utilities. In the alternative, UBS seeks authorization pursuant to Section 203 of the Federal Power Act for such acquisitions

Comment Date: July 22, 2002.

6. PJM Interconnection, L.L.C.

[Docket No. EL02–106–000]

Take notice that on July 1, 2002, PJM Interconnection, L.L.C. (PJM), pursuant to Section 206 of the Federal Power Act, submitted amendments to the Transmission Owners Agreement specifying that license plate rates will remain in effect until December 31, 2004 in the PJM control area.

Copies of this filing have been served upon all PJM members, and the state electric utility commissions in the PJM region.

Comment Date: July 22, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18215 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–73–002, et al.]

Griffiss Local Development Corporation, et al. Electric Rate and Corporate Regulation Filings

July 12, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Griffiss Local Development Corporation, Niagara Mohawk Power Corporation, Griffiss Local Development Corporation, and Oneida County Industrial Development Agency

[Docket Nos. EL99–73–002 and ER02–2285–000]

Take notice that on June 24, 2002, Griffiss Local Development Corporation (GLDC) and Oneida County Industrial Development Agency (Oneida IDA), on behalf of Niagara Mohawk Power Corporation, a National Grid Company (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Joint Settlement proposal resolving all issues in this proceeding and an Explanatory Statement in support thereof; and a proposed new rate schedule to be filed by Niagara Mohawk upon acceptance of Joint Proposal and to be designated as Niagara Mohawk's Rate Schedule FERC No. 315. On June 25, 2002, Griffiss filed a supplement to the Joint Settlement proposal. These two filings were both filed under Docket No. EL99–73–000.

Also, take notice that on June 24, 2002, Niagara Mohawk, GLDC and Oneida IDA filed Original Sheet Nos. 1–18, Rate Schedule No. 315, Settlement Service Agreement Administered Under Service Classification No. 12, effective January 1, 2002.

Comment Date: July 26, 2002.

2. Cleco Power LLC

[Docket Nos. ER01–1099–000, ER01–1099–001, ER01–1099–002, ER01–2147–000, ER01–3095–000, and ER02–1042–000]

Take notice that on July 3, 2002, Cleco Power LLC (Cleco Power) tendered for filing a letter requesting that Cleco Power be allowed to comply with the new electronic filings requirements under Order 2001 rather than file individual standard form service agreements in paper copy as previously directed by the Commission in the above referenced dockets.

Comment Date: July 24, 2002.

3. California Independent System Operator Corporation

[Docket No. ER02–651–002]

Take notice that on July 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing revised ISO Tariff sheets to comply with the Commission's June 3, 2002 Order in the above-referenced docket.

The ISO states that the filing has been served on each person designated on the official service list compiled by the Secretary in this proceeding.

Comment Date: July 24, 2002.

4. Central Illinois Light Company

[Docket No. ER02–708–003]

Take notice that on July 3, 2002, Central Illinois Light Company (CILCO), tendered for filing with the Federal Energy Regulatory Commission (Commission) amendments to CILCO's Ancillary Service Tariff to comply with the Commission's June 3, 2002 Order in this docket.

CILCO requested an effective date of February 1, 2002 for these amendments. Copies of the filing were served on the Illinois Commerce Commission and the service list in this docket.

Comment Date: July 24, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1420–003]

Take notice that on July 3, 2002, The Empire District Electric Company (Empire), in compliance with the Federal Energy Regulatory Commission's (Commission) May 31, 2002 Order in this proceeding, submitted a compliance filing notifying the Commission that it intended to participate in the regional transmission organization that will result from the planned consolidation of Southwest Power Pool, Inc. and the Midwest Independent Transmission System Operator, Inc.

A copy of the filing was served upon the parties on the official Commission service list in this docket and on the public utility commissions for each state in which Empire owns transmission facilities.

Comment Date: July 24, 2002.

6. Dearborn Industrial Generation, LLC

[Docket No. ER02–1689–002]

Take notice that on July 2, 2002, Dearborn Industrial Generation, LLC (DIG) filed a revised Market-Based Rate Tariff and Code of Conduct. Upon review of the subject tariff, we have noticed a typographical error. In Part II, paragraph 2 the word ''serve'' was omitted from the third sentence.

Comment Date: July 22, 2002.

7. David Sholk

[Docket No. ER02–1725–001]

Take notice that on June 25, 2002, David Sholk filed an amendment to Docket No. ER02–1725–000. The amendment includes a proposed David Sholk Electric Rate Tariff.

Comment Date: July 26, 2002.

8. PJM Interconnection, L.L.C.

[Docket No. ER02–2255–000]

Take notice that on July 3, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing one executed interim interconnection service agreement and one executed interconnection service agreement between PJM and PSEG Power, L.L.C. PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties.

Copies of this filing were served upon each of the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: July 24, 2002.

9. PJM (East) Interconnection, L.L.C.

[Docket No. ER02–2256–000]

Take notice that on July 3, 2002, the PJM (East) Transmission Owners Agreement Administrative Committee (TOAC) submitted for filing an amendment to the PJM Transmission Owners Agreement of June 2, 1997, on file with the Federal Energy Regulatory Commission (Commission) as PJM Interconnection LLC Rate Schedule No. 33. The amendment revises the TOA so as to permit a category of Transmission Owner whose obligation to participate in certain TOA activities under the PJM Operating Agreement is limited consistent with the limited nature of its ownership of transmission facilities.

Copies of this filing have been served on PJM Interconnection, LLC, the PJM (East) Transmission Owners, and the state electric regulatory commissions in the PJM (East) control area.

Comment Date: July 24, 2002.

10. California Independent System Operator Corporation

[Docket No. ER02–2257–000]

Take notice that on July 3, 2002, the California Independent System Operator Corporation, (ISO) tendered for filing a Participating Generator Agreement between the ISO and Monterey Regional Waste Management District for acceptance by the Federal Energy Regulatory Commission.

The ISO states that this filing has been served on Monterey Regional Waste Management District and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective June 20, 2002.

Comment Date: July 24, 2002.

11. California Independent System Operator Corporation

[Docket No. ER02–2258–000]

Take notice that on July 3, 2002, the California Independent System Operator Corporation, (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and the Monterey Regional Waste Management District for acceptance by the Federal Energy Regulatory Commission.

The ISO states that this filing has been served on the Monterey Regional Waste Management District and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective June 20, 2002.

Comment Date: July 24, 2002.

12. PPL Electric Utilities Corporation

[Docket No. ER02–2259–000]

Take notice that on July 3, 2002, PPL Electric Utilities Corporation (PPL Electric Utilities) tendered for filing an Interconnection Agreement between PPL Electric Utilities and Masonic Homes.

Comment Date: July 24, 2002.

13. Public Service Company of New Mexico

[Docket No. ER02–2260–000]

Take notice that on July 3, 2002, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements for firm point-to-point transmission service with PNM's Wholesale Power Marketing (PNMM), under the terms of PNM's Open Access Transmission Tariff. The first agreement is for 173 MW of firm point-to-point transmission service from Palo Verde Nuclear Generating Station 500kV Switchyard (Palo Verde) to the Westwing 345kV Switching Station (Westwing) for calendar year 2001. The second agreement is for 293 MW of firm point-to-point transmission service from Palo Verde to Westwing for calendar year 2002. PNM requests January 1, 2001 and January 1, 2002 respectively, as the effective date for each agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to PNMM, the New Mexico Public

Regulation Commission and the New Mexico Attorney General.

Comment Date: July 24, 2002.

14. The Detroit Edison Company

[Docket No. ER02–2261–000]

Take notice that on July 3, 2002, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff) between Detroit Edison and the following parties: CMS MST Michigan LLC; FirstEnergy Solutions Corp.; and Quest Energy LLC.

Comment Date: July 24, 2002.

15. Cleco Power LLC

[Docket No. ER02–2262–000]

Take notice that on July 3, 2002, Cleco Power LLC (Cleco) filed a service agreement with Acadia Power Partners, LLC for ancillary services under Cleco's open access transmission tariff (OATT). The Service Agreement is designated as Cleco Power LLC Service Agreement No. 61 to its OATT, FERC Electric Tariff, Original Volume No. 1.

Comment Date: July 24, 2002.

16. San Diego Gas & Elec. Company, et al.

[Docket No. ER02–2263–000]

Take notice that on July 3, 2002, Southern California Edison Company (SCE) filed a Market-Based Rate Tariff in order to comply with the Federal Energy Regulatory Commission's Order of December 19, 2001. A copy of this compliance filing has been served on the parties included on the Secretary's official service list for this proceeding.

Comment Date: July 24, 2002.

17. Edison Sault Electric Company, Madison Gas and Electric Company, Upper Peninsula Power Company, Wisconsin Electric Power Company, Wisconsin Power and Light Company, and Wisconsin Public Service Corporation

[Docket No. ER02–2264–000]

Take notice that on July 5, 2002, Edison Sault Electric Company, Madison Gas and Electric Company, Upper Peninsula Power Company, Wisconsin Electric Power Company, Wisconsin Power and Light Company, and Wisconsin Public Service Corporation tendered for filing a Limited Redispatch Agreement and Amendment No. 1 to the Limited Redispatch Agreement as a bilateral agreement pursuant to the congestion management provisions of Attachment K of the Midwest ISO's open access transmission tariff to create new Firm Transmission Service.

Comment Date: July 26, 2002.

18. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2265–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Madisonville Kentucky (Rate Schedule FERC No 162). The amendment removes contractual language between the City of Madisonville and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002

19. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2266–000]

Take notice that on July 5, 2002 , Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Madisonville Kentucky (Rate Schedule FERC No 191). The amendment removes contractual language between the City of Madisonville and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

20. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2267–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Madisonville Kentucky (Rate Schedule FERC No 193). The amendment removes contractual language between the City of Madisonville and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

21. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2268–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Nicholasville Kentucky (Rate Schedule FERC No 157). The amendment removes contractual language between the City of Nicholasville and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

22. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2269–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Bardwell Kentucky (Rate Schedule FERC No 186). The amendment removes contractual language between the City of Bardwell and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

23. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2270–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Barbourville Kentucky (Rate Schedule FERC No 184). The amendment removes contractual language between the City of Barbourville and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

24. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2271–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Bardstown Kentucky (Rate Schedule FERC No 185). The amendment removes contractual language between the City of Bardstown and the Southeastern Power Administration (SEPA). The SEPA

language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

25. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2272–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Madisonville Kentucky (Rate Schedule FERC No 194). The amendment removes contractual language between the City of Madisonville and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

26. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER02–2273–000]

Take notice that on July 5, 2002, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an amendment to the full requirement power contract between the Companies and the City of Frankfort Kentucky (Rate Schedule FERC No 190). The amendment removes contractual language between the City of Frankfort and the Southeastern Power Administration (SEPA). The SEPA language has been incorrectly attached to the power agreement.

Comment Date: July 26, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18214 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

July 15, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

EXEMPT

Docket No.	Date filed	Presenter or requester
1. Project Nos. 10942–000, 10100–002 and 0416–003	7–11–02	David Turner.
2. Project No. 10311–000	7–11–02	Nancy Kochan.
3. Project No. 477–000	7–11–02	Dick Prather.
4. Project No. 10311–000	7–11–02	Robert G. Whitlam.
5. Project No. 1494–232	7–11–02	Joe Harwood.
6. Project No. 1494–000	7–15–02	Mike Brady.
7. EC02–49–001, EL02–96–001	7–15–02	Anthony J. Alexander.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–18287 Filed 7–18–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7248–4]

National Advisory Council for Environmental Policy and Technology; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

The Charter for the Environmental Protection Agency's National Advisory Council for Environmental Policy and Technology (NACEPT) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App 9(c). The purpose of NACET is to provide advice and recommendations to the Administrator of EPA on issues associated with environmental management, technology and policy. It is determined that NACEPT is in the public interest in connection with the performance of duties imposed on the Agency by law.

Inquiries may be directed to Mark Joyce, U.S. EPA, (mail code 1601–A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–9802, or joyce.mark@epa.gov.

Dated: July 9, 2002.

Tim Sherer,

Acting Director, Office of Cooperative Environmental Management.

[FR Doc. 02–18278 Filed 7–18–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6631–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.compliance/nepa/*

Weekly receipt of Environmental Impact Statements

Filed July 08, 2002 Through July 12, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020294, Final EIS, AFS, NM, Agua/Caballos Timber Sale, Harvesting Timber and Managing Existing Vegetation, Implementation, Carson National Forest, El Rito Ranger District, Taos County, NM, Wait Period Ends: August 19, 2002, Contact: Kurt Winchester (505) 581–4554.

EIS No. 020295, Final EIS, FRC, WA, Warm Creek (No. 10865) and Clearwater Creek (No. 11485) Hydroelectric Project, Issuance of License for the Construction and Operation, Located in the Middle Fork Nooksack River (MFNR) Basin, WA, Wait Period Ends: August 19, 2002, Contact: Timothy Looney (202) 219–2852.

EIS No. 020296, Final EIS, AFS, ID, Hidden Cedar Project, Road Construction and Watershed Restoration, Idaho Panhandle National Forest, St. Joe Ranger District, Benewah, Shoshone, Clearwater and Latah Counties, ID, Wait Period Ends: August 19, 2002, Contact: George Bain (208) 245–2531.

EIS No. 020297, Draft EIS, FHW, NC, US 321 Highway Improvement Project (TIP), From NC–1500 (Blackberry Road) North to US 221 in Blowing Rock, Funding and COE Section 404 Permit, Town of Blowing Rock, Caldwell and Watauga Counties, NC, Comment Period Ends: September 03, 2002, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 020298, Draft EIS, NPS, AZ, Navajo National Monument, General Management Plan, Development Concept Plan, Implementation, Navajo Counties, AZ, Comment Period Ends: September 30, 2002, Contact: Rosemari Knoki (928) 672–2700.

This document is available on the Internet at: *http://planning.den.nps.gov/plans.cfm*.

EIS No. 020299, Final EIS, AFS, ID, Whiskey Campo Resource Management Project, Implementation, Elmore County, ID, Wait Period Ends: August 19, 2002, Contact: David Rittenhouse (208) 373–4100.

EIS No. 020300, Draft EIS, SFW, NM, Rio Grande Silvery Minnow (Hybognathus amarus), To be Designation for Critical Habitat, Implementation, Bernalillo, Sandoval, Socorro, Valencia Counties, NM, Comment Period Ends: September 04, 2002, Contact: Joy Nicholopoulos (505) 346–2525.

This document is available on the Internet at: *http://ifw2es.fws.gov*.

EIS No. 020301, Draft EIS, AFS, AK, Kosciusko Island Timber Sale(s), Harvesting Timber, Tongass National Forest, Thorne Bay Ranger District, Kosciusko Island, AK, Comment Period Ends: September 03, 2002, Contact: Glenn Pierce (907) 826–1629.

EIS No. 020302, Draft Supplement, COE, CA, Bel Marin Key Unit V Expansion of the Hamilton Wetland Restoration Project, New and Updated Information, Application for Approval of Permits, Novato Creek, Marin County, CA, Comment Period Ends: September 03, 2002, Contact: Eric Jolliffe (415) 977–8543.

This document is available on the Internet at: *http://www.coastalconservancy.ca.gov/belmarin*.

EIS No. 020303, Final Supplement, COE, MO, St. Johns Bayou and New Madrid Floodway Project, Channel Enlargement and Improvement, Revised Information to Formulate and Analyze Additional Alternatives, Flood Control and National Economic Development (NED), New Madrid, Mississippi and Scott Counties, MO, Wait Period Ends: August 19, 2002, Contact: Shawn Phillips (901) 544–3321.

EIS No. 020304, Final EIS, NOA, CA, San Francisco Bay National Estuarine Research Reserve, Proposes to Designate Three Sites: China Camp State Park, Brown's Island Regional Parks District, and Rush Ranch Open Space Preserve, Contra Costa, Marin and Solano Counties, CA, Wait Period Ends: August 19, 2002, Contact: Laurie McGilvray—ext 15 (301) 713–3132.

EIS No. 020305, Draft EIS, FHW, CA, Riverside County Integrated Project, Winchester to Temecula Corridor a New Multi-Modal Transportation Facility, Route Location and Right-of-Way Preservation, County of Riverside, CA , Comment Period Ends: September 20, 2002, Contact: Mary Ann Rondinella (916) 498–5040.

This document is available on the Internet at: *http://www.rcip.org*.

EIS No. 020306, Draft EIS, FHW, CA, Riverside County Integrated Project, Hemet to Corona/Lake Elsinore Corridor a New Multi-Modal Transportation Facility, Route Location and Right-of-Way Preservation, County of Riverside, CA, Comment Period Ends: September 20, 2002, Contact: Mary Ann Rondinella (916) 498–5040.

This document is available on the Internet at: *http://www.rcip.org*.

EIS No. 020307, Draft Supplement, AFS, OR, Deep Vegetation Management Project, Implementation, Additional Information on Four Alternatives, Ochoo National Forest, Paulina

Ranger District, Crook and Wheeler Counties, OR, Comment Period Ends: September 03, 2002, Contact: William E. Fish (541) 477–6900.

Amended Notices

EIS No. 020248, Draft EIS, COE, CA, Bolinas Lagoon Ecosystem Restoration, Proposal to Removal up to 1.5 Million Cubic Yard of Sediment from the bottom of Lagoon to Allow Restoration of Tidal Movement and Eventual Restoration of Tidal Habitat, Marin County, CA , Comment Period Ends: August 15, 2002, Contact: Roger Golden (415) 977–8703. Revision of FR Notice Published on 06/21/2002: CEQ Comment Period Ending 08/05/2002 has been Reestablished to 08/15/2002. Due to Incomplete Distribution of the DEIS at the time of Filing with USEPA under Section 1506.9 of the CEQ Regulations.

EIS No. 020282, Final EIS, COE, NJ, Meadowlands Mills Project, Construction of a Mixed-Use Commercial Development, Permit Application Number 95–07–440–RS, US Army COE Section 10 and 404 Permit Issuance, Boroughs of Carlstadt and Monnachie, Township of South Hackensack, Bergen County, NJ , Comment Period Ends: October 03, 2002, Contact: Steven Schumach (212) 264–0183. Revision of FR Notice published on 07/05/2002: CEQ Wait Period Ending 08/19/2002 has been Extended to 10/03/2002.

EIS No. 990029, Draft EIS, FAA, OH, Cancelled—Toledo Express Airport (TOL), Proposed Noise Compatibility Plan Air Traffic Actions and Proposed Aviation Related Industrial Development, Airport Layout Plan and Funding, Lucas County, OH, Due: March 17, 1999, Contact: Wally Welter (847) 294–8091. Revision of FR Notice Published on 02–05–1991: Officially Cancelled by the preparing agency by letter Dated 06/05/2002.

EIS No. 020236, Draft EIS, IBR, NM City of Albuquerque Drinking Water Project, To Provide a Sustainable Water Supply for Albuquerque through Direct and Full Consumptive Use of the City's San Juan-Chama (SJC) Water for Potable Purposes, Funding, Right-of-Way and COE Section 404 Permits, City of Albuquerque, NM, Comment Period Ends: August 13, 2002, Contact: Lori Robertson (505) 248–5326. Correction to Internet Site it should be: *http://www.uc.usbr.gov*.

Dated: July 16, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–18282 Filed 7–18–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6631–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–AFS–J65361–MT Rating EC2, Black Ant Salvage Project, Salvage of 739 Acres of Dead Merchantable Trees from the Lost Fork Fire of 2001, Lewis and Clark National Forest, Meagher Basin County, MT.

Summary: EPA expressed environmental concerns due to impacts on soils stated to have high to very high erosion hazards in watersheds of 303(d) listed streams, when a winter logging alternative is available that reduces the impacts. EPA requested additional cumulative effects information and mitigation measures to reduce impacts of the management actions.

ERP No. D–AFS–J65362–MT Rating EC2, Pipestone Timber Sale and Restoration Project, Timber Harvest, Prescribed Fire Burning, Watershed Restoration and Associated Activities, Kootenai National Forest, Libby Ranger District, Lincoln Lincoln County, MT.

Summary: EPA expressed environmental concerns about adverse impacts to water quality and recommends consideration of logging methods that reduce ground disturbance in areas with sensitive soils and greater erosion and sediment production potential. EPA will evaluate potential water quality issues and consistency with TMDL development on private industrial timber land in the 303(d) listed Bobtail Creek drainage.

ERP No. D–FRC–E03009–00 Rating EC2, Patriot Project, Construction and Operation of Mainline Expansion and Patriot Extension in order to Transport 510.00 dekatherms per day (dth/day) of Natural Gas, TN, VA and NC.

Summary: EPA has environmental concerns regarding potential impacts to wetlands, nosie and air quality, as well as concerns over environmental justice and the need for an improved alternatives analysis. Specific concerns include sidecasting of spoil in wetlands, compressor station noise, crossing of numerous waterbodies including potential contaminated sediments, and proximity/safety of numerous homes within 25–50 ft of the proposed pipeline route.

ERP No. D–FRC–L05225–OR Rating EC2, North Umpqua Hydroelectric Project (FERC Project 1927), New License Issuance for the existing 185.5–megawatt (MW) Facility, North Umpqua River, Douglas County, OR.

Summary: EPA expressed environmental concerns with the proposed project in that a number of plans, analyses and surveys needed to define project baseline conditions, expected environmental effects and needed mitigation measures have not been completed. EPA recommends that this work be completed and incorporated in the EIS. EPA also recommends that a monitoring and evaluation plan be developed and included in the EIS along with evidence that required government-to-government consultations with affected Tribal governments have been undertaken and completed.

ERP No. D–FRC–L05226–ID Rating EO2, C.J. Strike Hydroelectric Project (FERC NO. 2055), New License Issuance, Snake and Bruneau Rivers, Owyhee and Elmore Counties, ID.

Summary: EPA expressed environmental objections to three of the alternatives evaluated in the EIS as they would not result in any appreciable improvement to instream or riparian environmental conditions. EPA expressed concerns with the Run-of-River alternative due to the lack of a strategy for complying with applicable water quality standards. EPA recommended that the EIS include project impacts and mitigation, the white sturgeon conservation strategy, government-to-government consultation with tribes, and issues identified during scoping.

ERP No. D–TVA–E65059–00 Rating EC1, Pickwick Reservoir Land Management Plan (Plan), Proposal to use the Plan to Guide Land-Use Approvals, Private Water Use Facility Permitting and Resource Management Decisions, Colbert and Lauderdale Counties, AL and Tishomingo County, MS and Hardin County, TN,.

Summary: EPA has environmental concerns and recommends that TVA select an updated land management plan based on the management goals for Pickwick Reservoir considering existing reservoir water quality, shoreline development, natural resources, public comments, and the potential impacts of further development. EPA also recommends that TVA develop a specific watershed protection plan for the reservoir for TVA-owned and managed lands and be an important stakeholder in the community regarding larger watershed issues.

ERP No. DA–FRC–L05208–WA Rating EO2, Rocky Creek Hydroelectric Project, (FERC No. 10311–002) Construction and Operation of a 8.3–megawatt (Mw) Project, Application for License, Rocky Creek, Skagit County, WA.

Summary: EPA expressed environmental objections over potential significant impacts to aquatic and riparian habitat, as well as water quality. EPA recommended additional analyses to define the affected environment, define project impacts and identify mitigation measures to be incorporated in the FSEIS. EPA recommended selection of the No Action alternative.

Final EISs

ERP No. F–COE–E36180–MS

Yalobusha River Watershed, Demonstration Erosion Control Project, Construction of Six Floodwater-Retarding Structures, Yazoo Basin, Webster, Calhoun and Chickasaw Counties, MS.

Summary: EPA expressed environmental concerns regarding the long-term effects of the selected channelization and reservoir alternative, and suggest that these concerns could be addressed if measures protective of the environmental quality of Grenada Lake are implemented.

ERP No. F–DOD–A11076–00

Assembled Chemical Weapons Destruction Technologies at One or More Sites: Design, Construction and Operation of One or More Pilot Test Facilities, Anniston Army Depot, AL; Pine Bluff Arsenal, AR; Blue Grass Army Depot, KY and Pueblo Chemical Depot, CO.

Summary: EPA expressed environmental concern and requested that the Record of Decision contain commitments for further monitoring on air releases and the impacts to human health, and nearby agricultural areas.

ERP No. F–IBR–K39070–CA

American River Pump Station Project, Providing Placer County Water Agency (PCWA) with the Year-Round Access to its Middle Fork Project (MFP) Water Entitlements from the American River, Placer County, CA.

Summary: EPA's previous concerns on the adequacy of documentation regarding air quality impacts, water quality and quantity, and cumulative impacts have been addressed in the FEIS. EPA encouraged the Bureau of Reclamation to continue to work with Placer County and other entities to minimize secondary and cumulative impacts that may occur as a result of the project.

ERP No. F–SFW–K64019–NV

Stillwater National Wildlife Refuge Complex Comprehensive Conservation Plan and Boundary Revision, Implementation, Churchill and Washoe Counties, NV.

Summary: EPA supported the new preferred Alternative E and agrees that it will best serve the protection and enhancement of natural diversity. EPA encouraged the Service to continue to work with the state and local jurisdictions to implement policies and projects that will improve overall water quality. EPA recommended that the Service explore ways to blend the different water sources leading to the wetlands to help meet state water quality standards. EPA encouraged the consideration of mitigation actions identified in the FEIS to reduce wildlife exposure to toxic contamination.

Dated: July 16, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–18283 Filed 7–18–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7248–2]

National Beach Guidance and Required Performance Criteria for Grants

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is publishing the National Beach Guidance and Required Performance Criteria for Grants. This document provides performance criteria for monitoring and assessment of coastal recreation waters adjacent to beaches, and prompt public notification of any exceedance or likelihood of exceedance of applicable water quality standards for pathogens and pathogen indicators for coastal recreation waters. This document also outlines the eligibility requirements for monitoring and notification program implementation grants under Clean Water Act (CWA) section 406(b). This document is intended to be used by potential grant recipients to implement effective programs for monitoring and assessing coastal recreation waters. The document will also serve as requirements for Federal agencies to implement beach monitoring and notification programs when States do not implement a program consistent with the performance criteria.

ADDRESSES: Interested persons may obtain a copy of the document from the EPA Web site at *http://www.epa.gov/waterscience/beaches/* by contacting the Office of Water Resources Center at 202–260–7786 (e-mail: *center.water-resource@epa.gov*); mailing address is: Office of Water Resources Center, U.S. Environmental Protection Agency, RC–4100, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please request the National Beach Guidance and Required Performance Criteria for Grants (EPA–823–B–02–004), June 2002.

FOR FURTHER INFORMATION CONTACT: Charles Kovatch, EPA, Standards and Health Protection Division (4305T), 1200 Pennsylvania Ave., NW, Washington, DC 20460, or call at (202) 566–0399 or e-mail at *Kovatch.Charles@epa.gov.*

SUPPLEMENTARY INFORMATION:

What Does the BEACH Act Require?

The BEACH Act was passed on October 10, 2000. The BEACH Act amended the CWA to add section 406, which authorizes EPA to award grants to states and tribes to develop and implement a program to monitor and assess, for pathogens and pathogen indicators, coastal recreation waters adjacent to beaches or similar points of access that are used by the public and to notify the public if applicable water quality standards for pathogens and pathogen indicators are exceeded. EPA may award an implementation grant only if the applicant meets all of the statutory requirements for implementation grants. One of these requirements is that the applicant must implement a monitoring and public notification program that is consistent with performance criteria published by EPA under the Act. The BEACH Act also requires EPA to implement a monitoring and notification program for coastal recreation waters for states and tribes that do not have a program consistent with EPA's performance

criteria, using grant funds that would otherwise have been available to those states and tribes. A complete copy of the BEACH Act can be found at *http://www.epa.gov/waterscience/beaches/technical.html.*

What Is the Purpose of the Document?

This document sets forth performance criteria for (1) monitoring and assessing coastal recreation waters adjacent to beaches (or similar points of access used by the public) to determine attainment of applicable water quality standards for pathogen indicators and (2) promptly notifying the public of any exceedance or likelihood of exceedance of applicable water quality standards for pathogen indicators for coastal recreation waters. EPA is required to publish such performance criteria under CWA section 406(a). Section 406(b) authorizes EPA to award grants to states and tribes to implement a monitoring and notification program, but only if the program meets certain requirements (*see* CWA section 406(b)(2)(A)(i)–(v)). One of these requirements is that the monitoring and notification programs must be consistent with EPA's performance criteria.

The performance criteria provide the basis for EPA's evaluation of grant applications when deciding whether to award monitoring and notification program implementation grants under section 406(b). This document is intended to be used by potential grant recipients to implement effective monitoring and notification programs that will be eligible for grants under section 406.

This document also includes EPA's recommendations for implementing programs consistent with the performance criteria. In addition, this document also can serve as a reference guide for how and when to conduct preliminary beach assessments because it outlines protocols for water sample collection, sample handling, and laboratory analysis. It also provides information about using predictive models to estimate indicator levels and includes procedures for notifying the public about beach advisories, closings, and openings.

How Is the Document Organized?

The chapters in this document cover the following topics. *Chapter 1* discusses human health concerns associated with exposure to pathogens and discusses the establishment of water quality standards for bacteria. *Chapter 2* summarizes the basic requirements that an applicant must meet to receive a program implementation grant. The chapter identifies relevant sections of the BEACH Act, briefly describes the corresponding performance criteria that EPA has developed, and provides additional grant-related information. *Chapter 3* describes the risk-based evaluation process that EPA recommends for states and tribes to classify and prioritize their recreation beaches. This step-by-step approach allows states and tribes to assess the relative human health risks and usage of their beaches and to assign an appropriate management ranking to each of them. *Chapter 4* discusses the performance criteria related to monitoring and assessment and provides detailed technical guidance. *Chapter 5* describes the performance criteria and technical guidance related to the public notification and risk communication portions of a beach program. The appendices include detailed technical information associated with the topics discussed in the five chapters:

Dated: July 15, 2002

G. Tracy Mehan III,

Assistant Administrator for Water.

[FR Doc. 02–18280 Filed 7–18–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0034; FRL–7187–5]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Mississippi Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On December 17, 2001, the State of Mississippi submitted an application for EPA final approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Mississippi's application, provides a 45-day public comment period to solicit comments on whether the State of Mississippi application meets the requirements for EPA approval, and provides an opportunity to request a public hearing on the application. Submittal of the application for final approval by Mississippi was initiated consistent with 40 CFR 745.327(a)(1)(ii), which stipulates that the State shall apply for final approval within 180 days prior to expiration of its interim approval, which in Mississippi's case will be June 28, 2002. The State of Mississippi has been operating its lead-based paint program under an interim approval since June 28, 1999, during which time, the State has worked to address issues raised by EPA concerning the State's audit privilege/penalty mitigation statute. However, due to statutory deficiencies which remain in Mississippi's audit privilege/penalty mitigation statute, EPA is proposing to disapprove their application for final approval.

DATES: Comments must be received on or before September 3, 2002. Public hearing requests must be received on or before September 3, 2002. All correspondence must include the docket ID number OPPT–2002–0034.

ADDRESSES: Comments and the public hearing request may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0034 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Rose Anne Rudd, Pesticides and Toxic Substances Branch, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303; telephone number: (404) 562–8998; e-mail address: rudd.roseanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to firms and individuals engaged in lead-based paint activities in the State of Mississippi. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that

might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPPT–2002–0034. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket is located at the regional office library, Sam Nunn Atlanta Federal Center, 9th Floor - Tower, 61 Forsyth Street, S.W., Atlanta, GA. The telephone number for the library is (404) 562–8190.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0034 in the subject line on the first page of your response.

1. *By mail*. Submit your comments and hearing requests to: Rose Anne Rudd, Pesticides and Toxic Substances Branch, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303.

2. *In person or by courier*. Deliver your comments and hearing requests to: Pesticides and Toxic Substances Branch, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303. The regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The telephone number for the regional office is (404) 562–8956.

3. *Electronically*. You may submit your comments electronically by e-mail to: rudd.roseanne@epa.gov, or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPPT–2002–0034. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the various options we propose, new approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Actions Have Been Taken?

By cover letter dated March 3, 1998, the State of Mississippi submitted an application for the authorization of its State Lead-Based Paint Training and Certification Program (''Lead-Based Paint Program'') pursuant to section 404 of TSCA (15 U.S.C. 2684) (63 FR 38647). Following this submission, EPA identified issues arising from the State of Mississippi's audit privilege/penalty mitigation statute (Miss. Code Ann. 49–2–71 and 49–17–43) which unduly restricts the State's ability to fully administer and enforce its lead-based paint program and prevents the State from obtaining authorization.

By letter dated December 17, 1998, EPA informed the State that EPA could grant interim, instead of final, approval of the State's Lead-Based Paint Program. Subsequently, on June 28, 1999, the State of Mississippi withdrew the March 3, 1998, request for final approval, and asked that the application be considered instead as a submittal for interim approval.

The State of Mississippi has been operating its Lead-Based Paint Program under interim approval since June 28, 1999. Interim approval expires on June 28, 2002. EPA has worked with the State to remedy deficiencies in the State's statutes. However, two deficiencies at Miss. Code Ann. 49–2–71 and 49–17–43(g) have not been corrected which impair the State's ability to provide adequate enforcement in criminal proceedings and investigations, and in assessment of appropriate penalties.

The Mississippi Audit Privilege/Penalty Mitigation Statute at Miss. Code Ann. 49–2–71 creates a privilege for self-evaluation reports and is applicable to criminal proceedings and investigations. Under this statute, self-evaluation reports are not admissible in any legal or investigative action in a criminal proceeding and are not subject to discovery. To have adequate criminal

enforcement authority, Mississippi law must allow state officials unfettered access to evidence of criminal conduct regardless of whether that evidence is contained in an environmental self-evaluation report. Criminal privilege impairs the state's ability to access evidence of criminal conduct needed for criminal investigations, grand jury proceedings, and prosecutions. Requirements such as an *in camera* hearing prior to the use of a self-evaluation report will significantly impede criminal enforcement. The statute unduly restricts criminal enforcement authority; therefore, Mississippi's Lead-Based Paint Program does not provide adequate enforcement authority.

The Mississippi penalty mitigation provisions at Miss. Code Ann. 49–17–43(g) unduly limit Mississippi's authority to assess appropriate penalties. The penalty mitigation provisions in this statute mandate assessment of a de minimis or zero penalty when a person discovers noncompliance through a voluntary self-evaluation, discloses that information, and meets all other conditions of the statute. The statute does not provide sufficient flexibility or discretion for assessment of appropriate penalties. Although the statute contains exceptions and conditions, EPA has consistently maintained that another exception must be created. The penalty reduction provision should not apply in a case involving repeat violations. Application of the penalty reduction provision to repeat violations would not yield a penalty appropriate to the violation, as a de minimis or zero penalty would provide no incentive for a person to fully implement measures to prevent future violations. Accordingly, the application of the penalty mitigation provision to the Lead-Based Paint Program renders the requisite enforcement authority inadequate.

As a result, EPA believes that it cannot grant final approval of the State of Mississippi's Lead-Based Paint Program and has initiated the process to withdraw Mississippi's interim authorization pursuant to 40 CFR 745.324(i). The action to withdraw Mississippi's program is independent of the proposed action to disapprove Mississippi's final application outlined in Unit II. B. of this document.

B. What Action is the Agency Taking?

The State of Mississippi has submitted an application to EPA Region IV, under section 404 of TSCA and has requested final approval of its lead-based paint training and certification program. This application will be reviewed by EPA within 180 days of receipt of a complete application. Due to the statutory deficiencies contained in Mississippi's audit privilege/penalty mitigation statute and its application to the lead-based paint training and certification program, EPA proposes to disapprove the application for final approval.

Pursuant to section 404(b) of TSCA (15 U.S.C. 2684(b)), EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before approving or disapproving the application. Therefore, by this notice EPA is soliciting public comment on whether the State of Mississippi application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

C. What is the Agency's Authority for Taking this Action?

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–92), titled Lead Exposure Reduction.

Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404 (15 U.S.C. 2684), a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9) EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA (15 U.S.C. 2684(h)), EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized (15 U.S.C. 2684(a)). This authorization becomes ineffective, however, if EPA disapproves the application or withdraws the program authorization.

III. State Program Description Summary

The following summary of Mississippi's proposed final program has been provided by the applicant.

Mississippi Lead-Based Paint Training and Certification Program

The State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), is seeking final authorization from EPA to administer and enforce its own lead-based paint activities program. Regulations setting out the procedures and requirements for these activities were adopted by the Commission on Environmental Quality on January 22, 1998. Requirements under the regulations were applicable beginning August 31, 1998. The authority to administer and enforce a State program was provided for in the ''Lead-Based Paint Activity Accreditation and Certification Act'' passed by the Mississippi Legislature during the 1997 regular session.

The State lead-based paint program regulations are applicable to persons engaged in lead-based paint activities in target housing and child-occupied facilities. The State certification program requirements include the certification of firms, inspectors, risk assessors, supervisors, project designers and workers. Each certification discipline must meet required academic and/or experience requirements of the

State program regulations. Individuals must successfully pass the third party exam applicable to the certification discipline in order to be certified. The State program sets forth work practice standards for persons performing lead-based paint activities. The State program requires the filing of a project notification, in writing, prior to the commencement of any lead-based paint abatement activity.

All initial and refresher lead-based paint activities training programs must be accredited. The State program requires training programs to notify the State prior to conducting a training course. Full approval of a training program's lead-based paint activities course is contingent on a satisfactory on-site course audit. The State program provides for the suspension, revocation, or modification of training program accreditation and certifications of individuals and firms.

The State lead program also conducts outreach and compliance assistance activities. The objective of the activities is to educate the public and regulated community of the hazards of lead-based paint. The activities also inform the public and regulated community of the regulatory requirements applicable to lead-based paint activities.

IV. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before certain actions may take effect, the Agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this document in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: July 9, 2002.

J.I. Palmer, Jr.,

Regional Administrator, Region IV.

[FR Doc. 02–18223 Filed 7–18–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

July 5, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) as it pertains to the Paperwork Reduction Act, contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0787.

Title: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers.

Form No.: FCC Form 478.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, State, local or tribal government.

Number of Respondents: 28,414.

Estimated Time Per Response: 7 hours per submission; 14 hours for other requirements.

Frequency of Response: On occasion and semi-annual reporting requirements, recordkeeping requirements, third party disclosure requirements.

Total Annual Burden: 135,126 hours.

Total Annual Cost: N/A.

Needs and Uses: The goal of section 258 is to eliminate the practice of ''slamming'', which is the unauthorized change of a subscriber's preferred carrier. The rules and requirements implementing section 258 can be found in 47 CFR part 64. The purpose of the rules is to improve the carrier change process for consumers and carriers alike, while making it more difficult for unscrupulous carriers to perpetrate slams. In addition, each telephone exchange carrier and/or telephone toll provider is required to submit a semi-annual report on the number of slamming complaints it receives.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–18182 Filed 7–18–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

July 10, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An

agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0742.

Title: Telephone Number Portability (47 CFR part 52, subpart C, Sections 52.21–52.33) and CC Docket No. 95–116.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,858 respondents; 1,975 responses.

Estimated Time Per Response: .50 '' 149 hours (average).

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, on occasion and annual reporting requirements.

Total Annual Burden: 13,613 hours.

Total Annual Cost: $76,635.

Needs and Uses: 47 CFR part 52, subpart C, implements the statutory requirement that LECs provide number portability. In the Memorandum Opinion and Order on Reconsideration, issued in CC Docket No. 95–116, the Commission implements new and/or modified requirements. (1) In order to calculate a multi-region carrier's share of LNP administration costs, the agency needs a certification if that carrier cannot divide its revenue by LNP region and instead chooses to allocate such revenue by subscriber percentages. (2) To ensure that a non-LNP capable incumbent LEC participating in an extended area service calling plan with an LNP-capable carrier complies with LNP cost recovery law and rules, the agency needs the collection by tariff if such a carrier seeks to recover its query and LNP administration costs.

The information is collected and required by the Commission and will be used to implement Section 251 of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–18249 Filed 7–18–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Requirement Submitted to OMB for Emergency Review and Approval

July 15, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 26, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all comments to Kim A. Johnson, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–7232 or via internet at *Kim_A._Johnson@omb.eop.gov,* and Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith Boley Herman at 202–418–0214 or via internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION: *The Commission has requested emergency OMB review of this collection with an approval by July 26, 2002.*

OMB Control Number: 3060–XXXX.

Type of Review: New collection.

Title: Letter Re: In the matter of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.

Form No.: N/A.

Respondents: Business or other for-profit, not for-profit institutions, state, local or tribal government.

Number of Respondents: 6.

Estimated Time Per Response: 8 hours.

Frequency of Response: On-time reporting requirement.

Total Annual Burden: 48 hours.

Total Annual Cost: N/A.

Needs and Uses: The Chief of the Wireless Telecommunications Bureau seeks information from six of the nation's Incumbent Local Exchange Carriers (ILECs) regarding the status of their Automatic Location Information databases in order to assist Commercial Mobile Radio Carriers planning their transition to E911.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–18250 Filed 7–18–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC 02–44–G (Auction No. 44); DA 02–1491]

Auction No. 44 Revised Schedule, License Inventory, and Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document revises the schedule, license inventory, and procedures for Auction No. 44 in order to comply with the recently enacted Auction Reform Act of 2002. Auction No. 44 will start on August 27, 2002 and offer licenses for the C and D block in the Lower 700 MHZ band. This document identifies the qualified bidders eligible to participate in the rescheduled Auction No. 44 and procedures for the qualified bidders to follow.

DATES: Auction No. 44 is scheduled to begin on August 27, 2002.

FOR FURTHER INFORMATION CONTACT: Auctions and Industry Analysis Division: Howard Davenport, Legal Branch, or Lyle Ishida, Auctions Operations Branch, at (202) 418–0660; Linda Sanderson, Auctions Operations Branch, at (717) 338–2888. Auctions Accounting Group: Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496. Media Contact: Meribeth McCarrick at (202) 418–0654.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 44 Revised Procedures Public Notice* released June 26, 2002. The complete text of the *Auction No. 44 Revised Procedures Public Notice,* including attachment, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction No. 44 Revised Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

1. By the *Auction No. 44 Revised Procedures Public Notice,* the Wireless Telecommunications Bureau (''Bureau'') revises the schedule, license inventory, and procedures for Auction No. 44 in order to comply with the recently enacted Auction Reform Act of 2002, Public Law 107–195. With the exception of the changes set forth in the *Auction No. 44 Revised Procedures Public Notice,* the Commission's competitive bidding rules and the procedures, terms and conditions previously announced in the *Auction No. 44 Procedures Public Notice,* 67 FR 20773 (April 26, 2002), will apply in Auction No. 44.

2. Pursuant to the Auction Reform Act, the Commission will commence Auction No. 44 on August 27, 2002 with an inventory of 740 licenses in the Lower 700 MHz C and D blocks, or the 710–716/740–746 MHz and 716–722 MHz bands. The Auction Reform Act provides that the Commission may not commence Auction No. 44 on June 19, 2002 as previously scheduled. The Auction Reform Act defines the entities that are eligible to bid in a rescheduled auction of the C and D block licenses. The Auction Reform Act also directs the Commission to return certain payments to certain bidders within one month of its enactment.

New Auction Start Date

3. Auction No. 44 will begin on August 27, 2002. A complete list of all relevant dates appears at the end of the *Auction No. 44 Revised Procedures Public Notice.*

Eligible Bidders

4. Pursuant to the Auction Reform Act, only those entities that were qualified bidders for Auction No. 44 are eligible to participate in the rescheduled Auction No. 44. Accordingly, only the 128 qualified bidders identified in the *Auction No. 44 Qualified Bidders Public Notice,* are eligible to participate in Auction No. 44.

Continuing Application of Anti-Collusion Rule

5. All parties that submitted short-form applications to participate in Auction No. 44, including but not limited to qualified bidders, are reminded that they remain subject to the Commission's anti-collusion rule until the post-auction down payment deadline.

Revised Auction No. 44 License Inventory

6. In compliance with the Auction Reform Act, rescheduled Auction No. 44 will offer 740 C and D block licenses in the Lower 700 MHZ bands. The C block is a 12-megahertz spectrum block, consisting of a pair of 6-megahertz segments, which is licensed over 734 Metropolitan Statistical Areas (''MSAs'') and Rural Service Areas (''RSAs'') (sometimes collectively referred to as Cellular Market Areas (''CMAs'')). The D block is a 6-megahertz unpaired spectrum block, which is licensed over six 700 MHz Economic Area Groupings (''700 MHz EAGs''). A complete revised list of licenses available in Auction No. 44 and their descriptions is included in Attachment A of the *Auction No. 44 Revised Procedures Public Notice.*

7. The following table contains the block/frequency cross-reference for the 710–716/740–746 MHz and 716–722 MHz Bands:

Block	Frequencies (MHz)	Bandwidth (MHz)	Pairing	Geographic area type	Number of licenses
C	710–716, 740–746	12 MHz	2 x 6 MHz	MSA/RSA	734
D	716–722	6 MHz	Unpaired	700 MHz EAG	6

Return of Upfront Payments for Qualified Bidders Eligible To Bid on A, B, or E Blocks

8. In compliance with the Auction Reform Act, the Commission will honor timely requests for the return of upfront payments to payer(s) of record for qualified bidders eligible to bid on A, B or E block licenses, *i.e.,* qualified bidders that selected licenses in the A, B or E blocks and have upfront payments that purchased sufficient eligibility to bid on at least one of the licenses in those blocks (*i.e.,* an upfront payment of at least $3,069,000). Qualified bidders are reminded that, pursuant to the *Auction No. 44 Procedures Public Notice,* they only may bid on licenses when they have sufficient bidding units of eligibility. Full or partial return of upfront payments will reduce the qualified bidder's eligibility by one bidding unit for each dollar returned. No qualified bidder will be able to increase its eligibility after 6 p.m. ET, July 26, 2002, the deadline for selecting additional licenses (*see* Selecting Additional Licenses) and supplementing upfront payments (*see* Supplementing Upfront Payments). Qualified bidders should take all available precautions to assure that upfront payments held by the Commission provide sufficient eligibility to bid on all the licenses in

which they have an interest. As discussed further in Auction Registration Information, after completing the procedures set forth in the *Auction No. 44 Revised Procedures Public Notice,* the Bureau will issue a public notice providing a final list of all qualified bidders, their license selections, upfront payments, and bidding eligibility.

9. To obtain a full or partial return of upfront payment(s) to payer(s) of record for a qualified bidder eligible to bid on A, B or E block licenses, the qualified bidder's authorized representative or contact person identified on FCC Form 175 must send electronic mail containing the following information to *auction44@fcc.gov,* following the release of the *Auction No. 44 Revised Procedures Public Notice* but no later than 6 p.m. ET on July 3, 2002:

- A subject line indicating a request for Auction No. 44 upfront payment return;
- The qualified bidder's name;
- The total amount of the upfront payment for the qualified bidder to be returned;
- The name, street address, and telephone number of the party sending the email; and
- For each payer of record to receive a return payment, the following wire transfer information: Amount of Wire Transfer, Name and Address of Bank, ABA Number, Contact and Phone Number, Account Number to Credit, Name of Account Holder, FCC Registration Number (FRN), Taxpayer Identification Number, Correspondent Bank (if applicable), ABA Number, and Account Number.

10. All returns will be made by wire transfer. Absent other sufficient written instructions submitted by the payer(s) of record, upfront payment(s) will be returned to the payer(s) of record as identified on the FCC Form 159 that accompanied the upfront payment(s). Please call Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496 with any questions regarding wire transfer procedures.

11. The Commission will honor requests for returns of upfront payment from qualified bidders that comply with these procedures and that are received after the release of the *Auction No. 44 Revised Procedures Public Notice* but no later than 6 p.m. ET July 3, 2002. Qualified bidders intending to make use of these procedures are urged to do so promptly to avoid last minute errors. UNTIMELY REQUESTS WILL NOT BE HONORED.

Early Departure From Auction No. 44 and Upfront Payment Refunds

12. Due to the changes made to Auction No. 44 by the Auction Reform Act, the Bureau will permit any qualified bidder not eligible to bid on A, B or E block licenses to forgo further participation and depart from Auction No. 44 following the release of the *Auction No. 44 Revised Procedures Public Notice* but no later than 6 p.m. ET July 3, 2002. The Bureau provides this procedure because qualified bidders could not have anticipated the statutorily mandated changes in Auction No. 44 at the time they submitted their applications to participate. The upfront payments of any qualified bidders departing from Auction No. 44 will be refunded in full to the payer(s) of record. Qualified bidders not eligible to bid on A, B or E block licenses that depart using this procedure may obtain only full—NOT partial—refunds of upfront payments. Qualified bidders departing from Auction No. 44 may NOT supplement their upfront payments (*see* Supplementing Upfront Payments). Consequently, qualified bidders departing from Auction No. 44 and having upfront payments refunded will have zero bidding units of eligibility and no longer be eligible to bid on any licenses in Auction No. 44. Any qualified bidders departing from Auction No. 44 remain subject to the Commission's anti-collusion rule until the post-auction down payment deadline.

13. To forgo further participation and have the upfront payment refunded, a qualified bidder's authorized representative or contact person identified on FCC Form 175 must send electronic mail containing the following information to *auction44@fcc.gov* following the release of the *Auction No. 44 Revised Procedures Public Notice* but no later than 6 p.m. ET on July 3, 2002:

- A subject line indicating departure from Auction No. 44;
- The qualified bidder's name;
- The name, street address, and telephone number of the party sending the email; and
- For each payer of record, the following wire transfer information: Name and Address of Bank, ABA Number, Contact and Phone Number, Account Number to Credit, Name of Account Holder, FCC Registration Number (FRN), Taxpayer Identification Number, Correspondent Bank (if applicable), ABA Number, Account Number.

14. All refunds will be made by wire transfer. Absent other sufficient written instructions submitted by the payer(s) of record, upfront payment(s) will be returned to the payer(s) of record as identified on the FCC Form 159 that accompanied the upfront payment(s). Please call Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496 with any questions regarding wire transfer procedures.

15. The Commission will honor requests for early departure and will refund full upfront payments that comply with these procedures and that are received after the release of the *Auction No. 44 Revised Procedures Public Notice* but no later than 6 p.m. ET July 3, 2002. Qualified bidders intending to make use of the procedures are urged to do so promptly to avoid last minute errors. UNTIMELY REQUESTS WILL NOT BE HONORED.

Selecting Additional Licenses

16. Due to the changes made to Auction No. 44 by the Auction Reform Act, the Bureau will permit qualified bidders not departing from the auction to select additional licenses. The Bureau provides this procedure because qualified bidders could not have anticipated the statutorily mandated changes in Auction No. 44 at the time they submitted their original license selections. Accordingly, for purposes of allowing qualified bidders to make additional license selections in compliance with the *Auction No. 44 Revised Procedures Public Notice,* the Bureau waives on its own motion the prohibition against changes in the license service areas identified on the qualified bidder's short-form application as licenses on which the qualified bidder intends to bid. Qualified bidders are not authorized to de-select any licenses already selected, but, pursuant to the Commission's usual procedures, need not bid on every license selected. In addition, the Commission's prohibition against any other major amendments, *e.g.,* changes in ownership that would constitute an assignment or transfer of control, also remains in effect. Any application of the Commission's anti-collusion rule will take into account a qualified bidder's selection of any additional licenses.

17. To select additional licenses, the qualified bidder's authorized representative or contact person must send an electronic mail to *auction44@fcc.gov* no earlier than July 22, 2002 but no later than 6 p.m. ET on July 26, 2002 with the following information:

- A subject line indicating Auction No. 44 additional license selection;
- In the text of the message, the bidder must:

(i) List the Qualified Bidder's FRN number; and

(ii) List the additional licenses on which it wishes to bid in Auction No. 44. The licenses must be listed one per line and must correspond precisely to the ''License Number'' column found in Attachment A to the *Auction No. 44 Revised Procedures Public Notice.* Failure to list valid license numbers as provided in Attachment A will prevent the license from being added to the Form 175. The licenses may be listed in any order, and are not to be preceded by any labels or titles. Only additional licenses should be listed; do not list the licenses previously submitted on the Form 175 that were reported in the *Auction No. 44 Qualified Bidders Public Notice.*

18. For example, the following message would correctly request the addition of three licenses to the bidder with the specified FRN:

Subject Line: Auction No. 44 Additional License Selection
FRN: 0123456789
WZ–CMA003–C
WZ–EAG706–D
WZ–EAG701–D

19. To be effective, additional license selections must comply with these procedures and be received no earlier than July 22, 2002 but no later than 6 p.m. ET July 26, 2002. Parties that intend to make use of these procedures are urged to do so early in the period to avoid last minute errors. UNTIMELY ADDITIONAL LICENSE SELECTIONS WILL NOT BE EFFECTIVE.

Supplementing Upfront Payments

20. In addition, due to changes made to Auction No. 44 by the Auction Reform Act, the Bureau will permit qualified bidders not departing from Auction No. 44 to supplement their existing upfront payments to purchase additional bidding eligibility. The Bureau provides this procedure because qualified bidders could not have anticipated the statutorily mandated changes in Auction No. 44 at the time they submitted their original upfront payments. Accordingly, for purposes of allowing qualified bidders that do not depart from Auction No. 44 to make supplemental upfront payments in compliance with the *Auction No. 44 Revised Procedures Public Notice,* the Bureau waives on its own motion the prior deadline for upfront payments. To exercise this option, qualified bidders must submit the additional upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159 (Revised 2/00)). All supplemental upfront payments must be received at Mellon Bank no earlier than July 22, 2002, but no later than 6 p.m. ET on July 26, 2002. The FCC Form 159 is available on-line via a link from *www.fcc.gov/formpage.html.* The FCC Form 159 must be filed with Mellon Bank via facsimile at (412) 209–6045. A completed FCC Form 159 must be faxed to Mellon Bank at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write ''Wire Transfer—Auction Payment for Auction Event No. 44.''

21. Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Supplemental upfront payments for Auction No. 44 will go to the same lockbox number used for the initial Auction No. 44 upfront payment, as listed.
- Failure to deliver the supplemental upfront payment by the July 26, 2002, deadline will result in the bidder not receiving the corresponding additional eligibility.

Making Supplemental Upfront Payments by Wire Transfer

22. Wire transfer payments must be received no later than 6:00 p.m. ET on July 26, 2002. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261.
Receiving Bank: Mellon Pittsburgh.
Beneficiary: FCC/Account # 910–1182.
OBI Field: (Skip one space between each information item).
''AUCTIONPAY''.
FCC Registration Number (FRN): (same as FCC Form 159, block 11 and/or 21).
Payment Type Code: (same as FCC Form 159, block 24A: A44U).
FCC Code 1: (same as FCC Form 159, block 28A: ''44'').
Payer Name: (same as FCC Form 159, block 2).
Lockbox No.: # 358415.

Note: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

23. Bidders should confirm the receipt and the amount of their upfront payment at Mellon Bank by contacting their sending financial institution. All supplemental upfront payments must be received at Mellon Bank no earlier than July 22, 2002, but no later than 6:00 p.m. ET on July 26, 2002. Parties that intend to make use of the procedures are urged to do so early in the period to avoid last minute errors. UNTIMELY SUPPLEMENTAL UPFRONT PAYMENTS WILL NOT INCREASE A QUALIFIED BIDDER'S ELIGIBILITY.

Auction Registration Information

24. Approximately ten days before the auction, the Commission will issue a public notice providing a final list of all qualified bidders, their license selections, and upfront payments received for this auction.

25. Qualified bidders planning to participate in Auction No. 44 should retain ALL materials previously sent by overnight delivery in two separate mailings on June 11, 2002. These materials *WILL NOT* be re-sent (*e.g.,* Bidder Identification Numbers, SecurID cards, FCC Auctions Bidding System User Manual).

Bidder Identification Number

26. Qualified bidders should keep the letter sent by overnight delivery on June 11, 2002 that includes their Bidder Identification Number (''BIN'') stored in a safe and secure location. Each qualified bidder's BIN remains the same and will not be changed for the rescheduled Auction No. 44.

SecurID Cards

27. Qualified bidders should keep the SecurID Card sent by overnight delivery on June 11, 2002 stored in a safe and secure location. These same cards will be used for the rescheduled Auction No. 44. SecurID cards will be re-set to ''new PIN'' mode prior to the Mock Auction scheduled for August 22, 2002. Qualified bidders should refer to their ''FCC Auctions Bidding System User Manual (Auction 44)'' for complete details on how to Access the FCC Bidding System.

28. After participation in Auction No. 44 is completed, qualified bidders are encouraged to return their SecurID cards to the Commission for recycling. Qualified bidders will receive a pre-addressed, stamped envelope for use in returning SecurID cards together with their copy of the *Auction No. 44 Revised Procedures Public Notice.* Qualified bidders that forgo further participation in Auction No. 44 are encouraged to return their SecurID cards now. Qualified bidders participating in Auction No. 44 may return their SecurID cards after the close of the auction. Please note that each SecurID card is tailored to a specific auction; therefore, the SecurID cards issued for

Auction No. 44 will not work for future auctions.

Maintaining the Accuracy of FCC Form 175 Information

29. Parties are responsible for maintaining the accuracy and completeness of information furnished in their FCC Form 175 and exhibits. Parties should amend their applications within ten business days from the occurrence of a reportable change. Filers should make modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: *auction44@fcc.gov.* A separate copy of the letter should be faxed to the attention of Kathryn Garland, Chief, Auctions Operations Branch, (717) 338–2850. Questions about other changes should be directed to Howard Davenport at (202) 418–0660.

30. Any parties that must file amendments are advised that they will be unable to make modifications to their FCC Form 175 electronically from 6 p.m. ET July 22, 2002, until the release of the public notice containing the final list of qualified bidders. Parties nevertheless must make timely amendments by submitting a letter regarding any changes as described.

Revised Auction Schedule

31. Pursuant to the *Auction No. 44 Revised Procedures Public Notice,* the following deadlines now apply in Auction No. 44:

Deadline for requesting return of upfront payments by qualified bidders eligible to bid on A, B, or E block licenses—6 p.m. ET July 3, 2002.

Deadline for early departure from Auction No. 44—6 p.m. ET July 3, 2002.

Deadline for selecting additional licenses—6 p.m. ET July 26, 2002.

Deadline for supplementing upfront payments—6 p.m. ET July 26, 2002.

Mock Auction—August 22, 2002.

Auction Start—August 27, 2002.

Federal Communications Commission.

Magaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 02–18181 Filed 7–18–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 02–1608]

Eleventh Meeting of the Advisory Committee for the 2003 World Radiocommunication Conference (WRC–03 Advisory Committee)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–03 Advisory Committee will be held on August 22, 2002, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2003 World Radiocommunication Conference. The Advisory Committee will consider any preliminary views and/or proposals introduced by the Advisory Committee's Informal Working Groups.

DATES: August 22, 2002; 10 a.m.–12 noon.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Commission Meeting Room (TW–C305), Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexander Roytblat, FCC International Bureau, Strategic Analysis and Negotiations Division, at (202) 418–7501.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (FCC) established the WRC–03 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2003 World Radiocommunication Conference (WRC–03). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the Eleventh meeting of the WRC–03 Advisory Committee. The WRC–03 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the Eleventh meeting is as follows:

Agenda

Eleventh Meeting of the WRC–03 Advisory Committee, Federal Communications Commission, 445 12th Street, SW., Commission Meeting Room (TW–C305), Washington, DC 20554

August 22, 2002; 10 a.m.–12 Noon

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Tenth Meeting
4. Reports from regional WRC–03 Preparatory Meetings
5. NTIA Draft Preliminary Views and Proposals
6. IWG Reports and Documents relating to:
   a. Consensus Views and Issue Papers
   b. Draft Proposals
7. Future Meetings
8. Other Business

Federal Communications Commission.

Don Abelson,

Chief, International Bureau.

[FR Doc. 02–18180 Filed 7–18–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 2, 2002.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Romer Family (John Romer, St. Henry, Ohio; Elizabeth Romer, St. Henry, Ohio; Albert Romer, St. Henry, Ohio; David Romer, St. Henry, Ohio; Karla Clune, St. Henry, Ohio; Kathryn Hart, Miamisburg, Ohio; Lynn Hemmelgarn, Springboro, Ohio; Rebecca, Moorman, Ottoville, Ohio; James Romer, Piqua, Ohio; Margery Romer, Piqua, Ohio; Jacqueline Romer-Sensky, Westerville, Ohio; Jeffrey Romer, Harker Heights, Texas; Timothy Romer, Vandalia, Ohio; Nancy Schroeder, Dublin, Ohio; and Douglas Romer, Westerville, Ohio); to retain voting shares of St. Henry Bank, St. Henry, Ohio.

2. Romer Family (John Romer, St. Henry, Ohio; Elizabeth Romer, St.

Henry, Ohio; Albert Romer, St. Henry, Ohio; Rebecca Moorman, Ottoville, Ohio; James Romer, Piqua, Ohio; and Margery Romer, Piqua, Ohio); to acquire voting shares of The Ottoville Bank Company, Ottoville, Ohio.

Board of Governors of the Federal Reserve System, July 15, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–18197 Filed 7–18–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Morton Bancorp, Inc., Morton, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Morton, Morton, Mississippi.

2. P.C.B. Bancorp, Inc., Largo, Florida; to merge with Gateway American Bancshares, Inc., Fort Lauderdale, Florida, and thereby indirectly acquire voting shares of Gateway American Bank of Florida, Fort Lauderdale, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Independent Holdings, Inc., Memphis, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Independent Bank, Memphis, Tennessee.

Board of Governors of the Federal Reserve System, July 16, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–18303 Filed 7–18–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Grant Applications for a Demonstration Project for the Medical Reserve Corps, Citizens Corps, USA Freedom Corps

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of the Surgeon General.

ACTION: Notice.

SUMMARY: To provide funding for a demonstration project to demonstrate approaches to establishment of community-based, citizen volunteer Medical Reserve Corps units. Small grants will provide funding to community-based organizations, under the terms of cooperative agreements. The small grants will facilitate start-up of Medical Reserve Corps units and provide information to the Federal Government that will provide insights into best practices in such areas as: (1) Structure and organization, (2) recruitment and verification of credentials, (3) community-level partnership building, (4) competency levels for effective action, (5) training, (6) risk assessment, and (7) strategy development and planning.

Authority: This program is authorized by Section 301 of the Public Health Service Act, as amended, 42 U.S.C.; and, funded under Pub. L. 107–116, Title II, January 10, 2002.

The community-based, volunteer Medical Reserve Corps units are intended to supplement existing community emergency medical response systems as well as contribute to meeting the public health needs of the community throughout the year. They are not intended to replace or substitute for local, existing emergency response systems. The Medical Reserve Corps should help provide surge capacity during the initial hours following an emergency before assistance from other geographic localities may arrive.

The Medical Reserve Corps will provide an organized framework which will attract volunteers and provide them with skills needed to work effectively in emergency situations. It will help to ensure that the volunteers from Medical Reserve Corps units are deployed locally in a manner that is fully planned and coordinated with broader emergency response plans of the communities in which they are located. Moreover, the Medical Reserve Corps will serve as a mechanism for helping to ensure that volunteers have appropriate credentials for assignments which they will undertake when the Medical Reserve Corps is activated. The Medical Reserve Corps will help facilitate not only coordinated action but provide a greater predictability in volunteer resource capability when and where such services are needed.

The establishment of community-based volunteer Medical Reserve Corps units throughout the Nation will help meet the goal of enabling communities in the United States to be better prepared to respond to emergencies and urgent public health needs. It is anticipated that these community-based Medical Reserve Corps units will grow in number and in quality across the country.

The Medical Reserve Corps demonstration project grants programs will be supported through the cooperative agreement mechanism. This will enable a collaborative relationship between the grantee, the local Medical Reserve Corps unit and the Department of Health and Human Services' (HHS) Office of the Surgeon General. The Office of the Surgeon General will coordinate, through a private-sector contractor(s), technical assistance needed for the implementation, conduct, and assessment of program activities. The Office of the Surgeon General will provide necessary oversight of the program.

Specifically, the Federal Government plans to support the development of Medical Reserve Corps units by:

1. Developing and disseminating a guide, entitled *Medical Reserve Corps—A Guide for Local Officials,* for

communities that are planning to develop a Medical Reserve Corps unit;

2. Establishing and maintaining a website where Medical Reserve Corps core documents (*e.g., Medical Reserve Corps—A Guide for Local Officials),* training information, and a newsletter will be readily accessible;

3. Producing a monthly Medical Reserve Corps newsletter which will inform Medical Reserve Corps units and others of progress nationally on this initiative, best practices, shared experiences of Medical Reserve Corps units, and meeting notices;

4. Providing, through one or more government contractors, short-term technical assistance to successful applicants and/or Medical Reserve Corps units. Such technical assistance could include, for example, assistance with assessing training needs, development of training plans, assistance with planning and implementing drills (tabletop and/or field), development of supply and equipment acquisition plans, and development of operational plans;

5. Convening at least one meeting, in each of the HHS' ten regions in which Medical Reserve Corps unit officials may participate in-person or via appropriate and available communication systems; and,

6. Recommending evaluation approaches to Medical Reserve Corps units.

Background

During his January 2002 State of the Union address, President Bush called on all Americans to dedicate at least two years—the equivalent of 4,000 hours of their time—to provide volunteer service to others. To help every American answer the call to service, he created the USA Freedom Corps, and charged it with strengthening and expanding service opportunities for them to protect our homeland, to support our communities, and to extend American compassion around the World. The USA Freedom Corps in a coordinating council, similar to the National Economic Council or National Security Council, that relies upon the Federal agencies and departments that are a part of the coordinating council to carry out policies and programs.

At the same time that he formed the USA Freedom Corps, the President created the Citizen Corps initiative to offer Americans new opportunities to get involved in their communities through emergency preparation and response activities. The Citizen Corps initiative includes several new and existing programs that share the common goal of helping communities prevent, prepare for, and respond to crime, natural disasters and other emergencies. The programs include: Community Emergency Response Teams, under the direction of the Federal Emergency Management Agency; Neighborhood Watch, Volunteers in Police Service, and Operation TIPS, under the direction of the Department of Justice (DOJ); and, the Medical Reserve Corps, under the broad guidance and support of the Department of Health and Human Services.

At the local level, these Citizen Corps programs will be coordinated by Citizen Corps Councils supported by FEMA.

DATES: To be considered for review, applications must be received by August 23, 2002. Applications that do not meet the deadline will be considered late and will be returned to the applicant.

ADDRESSES: Applications must be prepared using Form PHS 5161–1 (revised July 2000). This form is available in Adobe Acrobat format at the following Web site: *http://www.cdc.gov/od/pgo/orminfo/htm.* Form PHS 5161–1 (revised July 2000) includes U.S. Government Standard Form (SF) 424, the required face page for grant applications submitted for Federal assistance and SF 424 A, a budget format for non-construction projects.

Complete applications should be submitted to: Ms. Karen Campbell, Grants Management Officer, Division of Management Operations, Office of Minority Health, Office of Public Health and Science, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852. Ms. Campbell can be reached by, telephone at: (301) 594–0758.

FOR FURTHER INFORMATION CONTACT: Questions regarding programmatic information related to preparation of grant applications should be directed in writing to Ms. Linda Vogel, Senior Public Health Advisor, Office of the Surgeon General, Office of Public Health and Science, U.S. Department of Health and Human Services, Room 18–66, 5600 Fishers Lane, Rockville, MD 20857, e-mail: *lvogel@osophs.dhhs.gov.*

Information on budget and business aspects of the application may be obtained from Ms. Karen Campbell, Grants Management Officer, Division of Management Operations, Office of Minority Health, Office of Public Health and Science, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852, telephone: (301) 594–0758.

SUPPLEMENTARY INFORMATION:

Availability of Funds

The Office of the Surgeon General anticipates making up to 100 awards in fiscal year 2002. Awards of amounts up to $50,000 (for direct and indirect costs) for up to a three-year period will be made. The actual number and dollar amount of the awards will depend on the number of approved applications received.

Matching Requirements

The applicant is not required to match or share project costs, if an award is made.

Period of Support

The start date for the cooperative agreement will be September 30, 2002. Support may be requested for a project period not to exceed three years. Grantees will be eligible for awards up to $50,000 (total amount) per year. Noncompeting continuation awards of up to $50,000 will be made in fiscal years 2003 and 2004, subject to satisfactory performance and the availability of funds.

Eligible Applicants

The Medical Reserve Corps small grants program applicant must be a public or private nonprofit community-based organization. Applicants may be an entity of the local government or a local nonprofit (501C.3 status), non-government organization. If a local Citizen Corps Council has 501C.3 status, the Citizen Corps Council can be the applicant.

Faith-based organizations that meet the definition of a private nonprofit community-based organization are eligible to apply for these Medical Reserve Corps small grants. Tribes, tribal organizations, and local affiliates of national, state-wide, or regional organizations that meet the definition of a private nonprofit, community-based organizations are eligible to apply.

To ensure wide geographic distribution of local Medical Reserve Corps units, applications will be accepted from organizations in all of the American States and Territories.

Only one grant will be awarded per community. If more than one application is received for the same community, the Office of the Surgeon General will contact local officials to make a determination of which application should be given priority. For communities where more than one group/organization is planning/developing a local citizen volunteer Medical Reserve Corps unit, it is recommended that these groups work together to submit one application.

Program Goals

The goals of the Medical Reserve Corps demonstration grants program are to:

1. Demonstrate whether medical response capacity in communities can be strengthened through the establishment of Medical Reserve Corps units consisting of citizen volunteers who represent a broad range of medical/health professions;
2. Demonstrate whether ''surge'' capacity can be created at the community level to deal with emergency situations which have significant consequences for the health of the population;
3. Demonstrate whether the Medical Reserve Corps does enable current and/or retired health professionals and related support personnel in communities to obtain additional training needed to work effectively and safely during emergency situations;
4. Demonstrate whether the Medical Reserve Corps approach does provide an effective organizational framework, with a command and control system, within which appropriately trained and credentialed citizen volunteers can put their skills in health and medicine to use effectively (including prearranged assignments) when there is an emergency;
5. Demonstrate whether the Medical Corps approach facilitates coordination of local citizen volunteer services in health/medicine with other response programs of the community/county/state during an emergency; and
6. Demonstrate whether the Medical Reserve Corps approach does provide cadres of health professionals, from within their home communities, who contribute to the resolution of public health problems and needs throughout the year.

Project Requirements

Medical Reserve Corps units should: (1) Be established and operate within the overall community plans for emergency preparedness and response and for public health improvement; (2) be comprised of citizen volunteers from within the community, including the immediate surrounding area; (3) have an organizational framework with a command and control system and have operational policies and procedures; (4) have a plan of action that is consistent with the risks and vulnerabilities of the community; (5) be fully coordinated and appropriately integrated into the existing emergency planning and response programs of the community; (6) develop strategies for activation of the local Medical Reserve corps unit(s), training of Medical Reserve Corps members to achieve needed competency standards, building working relationships/partnerships within the community, communications and logistics during emergencies, and practicing/drilling before emergencies occur; and (7) develop plans for additional functions, beyond emergency response, to promote public health in the community.

Application Requirements

In addition to the eligibility criteria cited above and use of the form PHS 5161–1 (revised July 2000) and found at: *http://www.cdc.gov/od/pgo/forminfo/htm,* successful candidates will address the following criteria in the narrative of their applications and provide the noted documentation:

- Documentation that the applicant is a unit of local government or community-based, nonprofit organization;
- Draft action plan, including initial measurable milestones, for establishment of a citizen volunteer Medical Reserve Corps unit, including goals, objectives, and time lines;
- Documentation of the existence of a planning body for the Medical Reserve Corps, including the name of the chair or lead organization, and the principals of the organizations;
- Specification of any arrangements or agreements with other local public or private organizations [e.g., Citizen Corps Council, Mayor's office, city Council, County Commission, County Chief Executive, Fire Department, Department of Health, Chief of Emergency Response for the Community, community hospital(s), Red Cross, local medical society and/or other health professions organizations, local-based government hospitals (VA, Indian Health Service), Rotary, Lions and Kiwanis Clubs] for the purposes of planning, establishing, and utilization of a local Medical Reserve Corps unit(s);
- Demonstration of linkages and/or understanding of existing emergency medical response entities in the community (*e.g.,* minutes of a planning meeting in which there was substantive involvement of other key community stakeholders, including NGOs);
- Demonstration of a linkage with local government health and emergency response authorities;
- A proposed budget which is consistent with the approved types of expenditures set forth below;
- Other letter(s) of support are optional.

Use of Grant Funds

Applicants may request funds for the following types of allowable expenses, subject to Federal Government regulations regarding non-allowable expenses in Federal assistance programs:

1. Organizing a Medical Reserve Corps, including establishment of a leadership and management structure;
2. Implementation of mechanisms to assure appropriate integration and coordination with existing local emergency response and health assets and capabilities;
3. Recruiting volunteers for the Medical Reserve corps;
4. Assessing the community's risks and vulnerabilities;
5. Development of plans to develop, organize and mobilize the Medical Reserve Corps in response not only to urgent needs but also to address other public health needs in the community;
6. Training for leadership and preparedness; and
7. Training in specific skills.

Review of Applications

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will be returned without review or comment. Applications will be reviewed for conformity with the applicant eligibility criteria. HHS will contact in writing all applicants which do comply with the applicant eligibility criteria to advise them of this finding. Accepted applications will be reviewed for technical merit in accordance with HHS policies.

Applications will be evaluated by a technical review panel composed of experts in the fields of emergency medical response, medicine, public health, program management, community service delivery, and community leadership development. Consideration for award will be given to applicants that best demonstrate progress toward establishment of a local citizen volunteer Medical Reserve Corps unit. Additionally, applications that best demonstrate the development of plausible strategies, including a time line, for organizing, recruitment for, and making operational a citizen volunteer Medical Reserve corps unit that is linked to other community-based programs and players for emergency response will rank more highly than those applications which do not. Applicants which have a linkage or plan a linkage with the community's Citizen Corps Council (if one has been established) should address that point, as applicable and appropriate.

Organization of Application

Applicants are required to submit an original ink-signed and dated application and two (2) photocopies. All pages must be numbered clearly and sequentially beginning with the Project Profile. The application must be typed double-spaced on one side of plain 8½″x11″ white paper, using at least a 12 point font, and contain 1″ margins all around.

The Project Summary and Project Narrative must not exceed a total of ten double-spaced pages, excluding any appendices. The original and each copy must be stapled and/or otherwise securely bound. An outline for the minimum information to be included in the ''Project Narrative'' section and related appendices is presented below.

I. Background (location, responsible organization/body, linkages within community)
II. Objectives
III. Summary of existing relevant community resources
IV. Strategy/plans with time line (can be in sequenced, bullet form)
V. Key project staff and current structure
VI. Evaluation—how progress will be measured
VII. Statement of willingness to contribute written information on local Medical Reserve Corps unit experiences, particularly what has worked well and lessons learned, to the Office of the Surgeon General for sharing with other communities establishing Medical Reserve Corps
VIII. Statement of willingness to discuss with the designed Office of the Surgeon General Medical Reserve Corps project staff the types technical assistance which the Medical Reserve Corps organizers believe they may need, with a view toward possible utilization of the Office of the Surgeon General technical assistance contract which was awarded for this purpose.

Application Review Criteria

The technical review of applications will consider the following factors:

Factor 1: Implementation Plan—45%

This section should discuss:

1. Brief summary of existing community resources and linkages to deliver coordinated emergency medical response services in a large scale (for the locality) emergency.

2. The role the Medical Reserve Corps will most likely play in relationship to existing services, including local health department, fire department, community hospital(s), Red Cross and other NGO's; and, if an officially recognized Citizen Corps Council has been established in the community, the nature of any linkage to the Citizen Corps Council.

3. The proposed plan and time line for establishment of a Medical Reserve Corps, ranging from established of a planning/steering group, organizational meetings, goals and objectives, development of organizational structure, policies and procedures, recruitment, liaison and partnership building, training, *etc.*

Although components of a Medical Reserve Corps do not necessarily have to be in place at the time the application is submitted, the applicant must discuss/describe the resources available to support these components and plans for phasing in the components of the action plan and the relationship of the plans to existing programs/institutions in the community/county/area.

Factor 2: Management Plan—20%

Applicant organization's capability to manage the project as determined by the availability and qualifications of the proposed staff (may be either volunteer or hired).

Applicant organization's listing of partners in the establishment and utilization of the citizen volunteer Medical Reserve Corps and their relationships and the mechanism(s) that will be utilized to convene the partners for constructive planning and implementation.

Factor 3: Evaluation Plan—10%

A clear but brief statement of program goals and how progress toward meeting those goals will be assessed.

A clear statement that the grant recipient is willing to contribute information on the progress, lessons learned, best practices, etc. to the Office of the Surgeon General at 6-month intervals.

Factor 4: Supporting Documentation—10%

Adequacy of supporting documentation that the Medical Reserve Corps planning group is appropriately connected to local government entities (*e.g.,* Mayor's office, City Council, County Executive, County Council, Fire Department, Department of Emergency Planning and Response) and appropriate local organizations such as the Citizen Corps Council (if one has been officially established), American Red Cross, civic organizations (*e.g.,* Kiwanis, Rotary, Siroptomist, Lions, Clubs); veterans organizations, health professions organizations, and faith-based groups, etc.

Factor 5: Background—10%

Adequacy of demonstrated knowledge of emergency medical response/care systems, and utilization of volunteers.

Factor 6: Technical Assistance—5%

A clear statement that the applicant, if awarded a grant, would communicate reasonable technical assistance needs, including justification, to the project focal point in the Office of the Surgeon General for possible fulfillment through one of the Office of the Surgeon General's technical assistance contracts.

This information will enable the Office of the Surgeon General to develop an understanding of the technical assistance most needed by communities in developing their Medical Reserve Corps unit(s).

Award Criteria

Funding decisions will be made by the Office of the Surgeon General and will be based on the recommendations adn ratings of the technical review panel.

Reporting and Other Requirements

General Reporting Requirements

A successful applicant under this notice will submit: (1) Progress reprots; (2) an annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by the Office of the Surgeon General, in accordance with provisions of the general regulations which apply under 45 CFR part 74.51–74.52, with the exception of State and local governments to which CFR part 92, subpart C reporting requirements apply.

The Office of the Surgeon General has established the following requirements for inclusion in the annual and/or final report(s):

- A summary of the status of development of the Medical Reserve Corps (not to exceed 5 pages in the main report), including the major activities and accomplishments, objectives met and not met, and lessons learned;
- Copy of organizational chart and brief narrative description of the structure of the Medical Reserve Corps, including its line-of-command;
- Copy of policies and procedures (*e.g.* scope of operations, criteria for mobilization and demobilization) for the local Medical Reserve Corps;
- Copy of risk/vulnerability assessment (a copy of such an assessment prepared by other entities in the community and to which the Medical Reserve Corps is linked may be submitted);
- Resource availability and needs assessment; and
- Copy of database of appropriately credentialed volunteers who are committed to participate as members of the Medical Reserve Corps.

Public Health System Reporting Requirements

This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprized on proposed health services grant applications submitted by community-based non-governmental organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted: (a) A copy of the face page of the application (SF 424); and (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served; (2) a summary of the services to be provided; and (3) a description of the coordination planned with State or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to the Office of the Surgeon General.

State Reviews

This program is subject to the requirements of Executive Order 12372 which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit available under this notice will contain a list of States which have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. Applications (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline established by the OMH Grants Management Officer.

The Office of the Surgeon General does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (*See* ''Intergovernmental Review of Federal Programs'' Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements).

Provision of Smoke-Free Workplaces and Non-Use of Tobacco Products by Recipients of PHS Grants

HHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children.

Definitions

For the purposes of this small-grant program, the following definitions are provided:

Citizen Corps Council: A Citizen Corps Council established at the community or county level within the overall frame work of the Citizen Corps, USA Freedom Corps. The Citizen Corps Council structure falls within the overall purview of FEMA.

Community-based: The focus of control and decision making powers are located at the community level, representing the service area of the community or a significant segment of the community.

County-based: The focus of control and decision making powers, insofar as the scope of this program is concerned, are located at the county level, representing the service area of the county or a significant segment of the county.

Non-governmental organization (NGO): A nonprofit, non-governmental organization having 501(c)(3) status.

Office of Minority Health (OMH): The Office of Minority Health, Office of Public Health and Science, Office of the Secretary, Department of Health and Human Services, which is serving as the great management organization for this announcement.

Dated: July 17, 2002.

Kenneth P. Moritsugu,

RADM, Acting Surgeon General, Public Health Service.

[FR Doc. 02–18375 Filed 7–18–02; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Michael Shishov, M.D., Brigham and Women's Hospital, Inc. (BWH): Based on the report of an investigation conducted by Brigham and Women's Hospital, Inc. (BWH Report), the respondent's admission, and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that the respondent, a former laboratory technician in the Intensive Physiological Monitoring Unit of the BWH General Clinical Research Center, engaged in scientific misconduct in a program of sleep disorder research supported by the National Institutes of Health (NIH) under National Center for Research Resources (NCRR), NIH, grant M01 RR02635.

Specifically, PHS found, and the respondent admitted, that on numerous occasions between May and August 1995, he registered on the Termiflex-computer terminal, as well as writing in hand on blood draw sheets and laboratory logs, the times that he claimed he drew blood samples from human subjects in investigational sleep research. These times differed from the actual times when the samples were collected. The accurate assessment of the endogenous circadian phase and amplitude of the measured variables, including the timing and amount of blood cortisol, was essential for the studies. However, PHS acknowledges certain mitigating circumstances: (a) That occasionally during this time, the respondent may have been responsible for more protocol procedures than he could reasonably be expected to perform; and (b) that the BWH Report notes that he was respectful and honest during the investigation and that he has participated conscientiously in a program of professional ethics counseling. Therefore, PHS accepts the administrative actions previously imposed by BWH and performed by the respondent: (1) Attending an ORI conference on research misconduct; and (2) participating in ethics counseling over a three-year period.

Dr. Shishov has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed to exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for

a period of three (3) years, beginning on July 2, 2002.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–18239 Filed 7–18–02; 8:45 am]

BILLING CODE 4150–31–U

DEPARTMENT OF HELATH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

The Health Care Policy and Research Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct, on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not meet regularly and do not serve for fixed terms or long periods of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for Large Conference Grant Awards are to be reviewed and discussed at this meeting. These discussions are likely to include personal information concerning individuals associated with these applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: Large Conference Grant Projects.

Date: July 22, 2002 (Open on July 22, from 2:30 p.m. to 2:40 p.m. and closed for remainder of the teleconference meeting).

Place: Agency for Healthcare Research and Quality, 2101 East Jefferson Street, 4th Floor, ORREP, 4W5, Division of Scientific Review, Rockville, MD 20852.

Contact Person: Anyone wishing to obtain a roster of members or minutes of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1846.

''This notice is being published less than 15 days prior to the July 22 meeting due to the time constraints of reviews and funding cycles.''

Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 15, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–18259 Filed 7–18–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02130]

Cooperative Agreement With National Organizations for Promoting Health and Preventing Disease and Disability With Employer-Purchasers of Health Care; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program with National Organizations for Promoting Health and Preventing Disease and Disability, and improving healthy behaviors. This program addresses all ''Healthy People 2010'' focus areas.

The purpose of the program is to support cross-cutting activities with national business organizations and their affiliated employer-purchasers of health care to improve health, prevent disease and disability, and promote healthy behaviors with regard to a variety of disease areas and health conditions. It's purpose is to also promote the objectives outlined in The Guide for Community Preventive Services *(http://www.thecommunityguide.org)* and other clinical and preventive services guidelines, through the translation and communication of public health principles and prevention practices into readily interpretable and applicable information for employer-purchasers of health care.

Program Emphasis

There are two broad areas of program emphasis:

1. Prevention of chronic disease and integrated chronic disease care, with a special focus on preventing, identifying and managing co-morbidities of chronic illness and the special needs of chronically ill populations.

2. Prevention of acute and chronic health conditions, diseases, concerns and issues that affect women.

In addition, applicants should ensure that their proposals address reducing health status disparities within employed populations. More specifically, address the persistent problem that, even with health insurance, certain racial and ethnic subpopulations bear a significantly greater burden of suffering, particularly from chronic disease.

Measurable outcomes of the program will be in alignment with the following performance goal for the CDC Epidemiology Program Office: Maximize the distribution and use of scientific information and prevention strategies through collaborative efforts with national business organizations and their affiliated members.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 317(k)(2) of the Public Health Service Act [42 U.S.C. 241 and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

C. Eligible Applicants

Applications will be accepted from national, nonprofit organizations that provide documented proof of meeting the following criteria in the ''Eligibility'' section of the application:

1. Be an established tax-exempt organization (i.e., a non-governmental, tax-exempt corporation or association whose net earnings in no way accrue to the benefit of private shareholders or individuals). Tax-exempt status may be confirmed by providing a copy of the relevant pages from the Internal Revenue Service's (IRS) most recent list of 501(c) (3) or (6) tax exempt organizations or a copy of the current IRS Determination Letter. Proof of tax-exempt status must be provided with the application.

2. Have a membership composed primarily of small, medium, or large, private employers with multi-state and/or national operations.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

Recipients may enter into contractual agreements, as necessary, to accomplish the goals and objectives of this program.

D. Availability of Funds

Approximately $400,000 is available in FY 2002 to fund two to three awards. It is expected that the average award will be $165,000, ranging from $130,000 to $200,000. It is expected that awards will begin on or about September 30, 2002, for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purposes of this program, the recipient will be responsible for activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities. The recipient will be required to perform a minimum of four out of the five core activities described under items a, b, c, d and e. Item f (dissemination) is a required core activity and must be addressed in addition to the other four selected core activities. In addition to the core activities, complementary program activities described in items g and h may be supported based on the availability of supplemental funds from participating CDC Programs.

1. Recipient Activities:

Core Activities

a. Develop case examples of employer-purchaser/health plan collaborative initiatives that utilize assessment tools (*e.g.,* avoidable claims analysis) to identify and stratify explicitly preventable health care costs and promote deployment of disease-management or similar strategies to reduce preventable disease burden and the associated health care costs.

b. Convene business forums and round tables with leading employer-purchasers (to include Chief Financial Officers, Senior Benefits staff and Medical Directors) and their corresponding vendors (e.g., health plans, provider networks, third party brokers and consultants) that operate prevention-oriented employee health improvement programs in the areas of chronic disease prevention and care, and/or women's health. The aim of these sessions should be to analyze and document the purchaser decision-making process regarding the allocation of resources for prevention-oriented employee health care services. An additional goal of these sessions should be to encourage participants to utilize current evidence-based strategies in their initiatives to purchase disease management and other preventive health services.

These sessions should also identify a means within the premium negotiation process between employer-purchasers and health plans to address explicitly the allocation of resources necessary to support the information technology system infrastructure of health plans and providers (*e.g.,* disease registries and reminder systems).

c. Identify case examples of employer-purchasers which have adopted value-based purchasing strategies that link accreditation, quality improvement and performance measurement; and assess the impact of this linkage on the receipt of preventive services by insured populations.

d. Identify and evaluate decision-support tools which include Return on Investment (ROI) and Employee Health-Productivity models tailored to assist an employer-purchaser in making decisions about selecting and packaging clinical preventive services for its health benefits coverage. These tools should be applicable for decisions to select disease or condition-specific, stand-alone or carve-out services, as well as a more integrated disease management strategy for the employer. These tools should also have the capacity to support decisions across the spectrum of health plan and provider structures (*e.g.,* health maintenance organizations (HMOs); preferred provider organizations (PPOs); and other managed care organizations) and other vendor product lines.

e. Identify effective health promotion models in the areas of chronic disease management and women's health, and develop publications in collaboration with CDC of best practices targeting business, the national business press, and popular mass media to promote replication.

Required Core Activity

f. Develop and disseminate accurate and timely electronic and print materials that focus on findings of cooperative agreement activities, and are specifically tailored to business. As part of the dissemination of this information, recipients may develop and use diverse channels of communication such as E-mail, websites, executive summaries and other publications targeted for national dissemination, as well as CDC meetings, other meetings and conferences, executive seminars, and symposia.

Complementary Program Activities

g. Develop, implement and evaluate the outcomes of demonstration projects with one to five employers/corporations related to core cooperative agreement activities and goals regarding decision-making tools; disease management and prevention; adoption of preventive health services; and worksite health promotion.

h. Describe and implement activities to bridge corporate purchasers and public health related to planning and reacting to bioterrorism, population health threats, or other emerging health issues.

2. CDC Activities

a. Provide technical assistance and monitor the progress of all aspects of this cooperative agreement.

b. Provide up-to-date scientific information and consultation.

c. Provide opportunities for presentations to CDC staff and management on needs and perspectives of business relative to health. Other activities may include reciprocal site visits between CDC and Business Organizations to collaborate on projects and exchange ideas and strategies.

d. Provide CDC experts for presentations at national business conferences and executive sessions to inform and educate on public health goals and objectives.

e. Collaborate with recipients on cooperative agreement activities, including publications, as appropriate.

F. Content

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one-inch margins and 12-point font.

1. Organizational Profile (maximum 10 pages)

a. Provide a narrative on the applicant organization, including: background information; evidence of relevant experience and past experience working with other organizations, including government agencies; and a clear understanding of this announcement's purpose. Provide evidence of an organizational structure and mission

that can meet the requirements of this program.

b. Provide a membership listing and an estimate of members' combined total workforce.

c. Include details of past experiences working with members on health and health-related issues.

d. Profile qualified personnel who are available to work under this agreement. Include a global organizational chart which also demonstrates the geographic location(s) and organizational positions of all anticipated personnel.

2. Program Plan (maximum 18 pages)

a. Provide clear and concise descriptions of proposed recipient activities (four or more from those specified in this announcement), demonstrating your understanding of public health principles, the intent of this announcement, and your members' needs. Include some preliminary ideas on members' needs (in the areas of health promotion, disease and disability prevention, chronic disease management, wellness and health screening programs, health care quality assessment and improvement, health benefits purchasing, and community outreach) and how they relate to this announcement.

b. Include goals and measurable objectives that are specific, time-framed and relevant to the intent of this announcement. Detail the potential benefits of the proposed objectives.

c. Provide an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

d. Include an evaluation plan which encompasses both qualitative and quantitative measures for the achievement of program objectives, as well as a mechanism for mid-course correction when those objectives are not being met.

e. Provide a plan for sharing findings/results indicating when, to whom, and in what format.

f. Provide a plan for obtaining additional resources from non-federal sources to supplement program activities and ensure their continuation after the end of the project period.

3. Budget Information

Provide a detailed budget with justification. The budget proposal should be consistent with the purpose, program requirements, and program plan presented.

G. Submission and Deadline

Submit the original and two copies of PHS–5161–1 (OMB Number 0937–0189). Forms can be obtained at the following internet address: *www.cdc.gov/od/pgo/forminfo.htm* or by contacting the Grants Management Specialist listed in the ''Where to Obtain Additional Information'' section of this announcement.

The application must be received by 5 p.m., August 19, 2002. Submit the application to: Technical Information Management—PA02130, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are received before 5 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goal stated in section ''A. Purpose'' of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated individually by an independent review group appointed by CDC against the following criteria:

1. Program Plan (40 points)

The extent to which the applicant's program plan meets the required activities specified under ''Recipient Activities'' in this announcement and are measurable, specific, time-framed and realistic.

2. Capability (25 points)

The extent to which the applicant demonstrates the possibility of successfully implementing the proposed activities as measured by relevant past history; a sound management structure and staff qualifications, including the appropriateness of proposed roles, responsibilities and job descriptions; and a description of the applicant's capability to collaborate and partner with other organizations and agencies to disseminate and share results.

3. Evaluation (20 points)

The extent to which the applicant has developed mechanisms for evaluating and reevaluating progress toward stated goals and objectives which include feedback from its membership. The extent to which the applicant builds in the capacity for mid-course correction(s) based on those evaluations.

4. Organizational Profile (15 points)

The extent to which the applicant's existing organizational structure, mission, goals, objectives, activities, functions and membership composition are consistent with the purpose of this program announcement.

5. Budget (Not scored)

The extent to which the budget is reasonable in the amount(s) requested, justified by the application content, and consistent with the intentions of this announcement.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports. The progress report will include a data requirement that demonstrates measures of effectiveness.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see the program announcement Attachment I as posted on the CDC internet home page.

AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address—*http://www.cdc.gov* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For business management assistance, contact: Mattie Jackson, Grants Management Specialist—PA02130, Procurement and Grants Office, Centers for Disease Control & Prevention, 2920 Brandywine Road, Room 3000, Mailstop K–75, Atlanta, GA 30341–4146, Voice: (770) 488–2696; Fax: (770) 488–2670/2671, E-mail: *mij3@cdc.gov.*

For program technical assistance, contact: Paul V. Stange, Office of HealthCare Partnerships, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, K–73, Atlanta, GA 30341–3724, Voice: (770) 488–8199; Fax: (770) 488–8461, E-mail: *pstange@cdc.gov.*

Dated: July 12, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–18237 Filed 7–18–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02211]

Outcome Assessment Through Systems of Integrated Surveillance (OASIS); Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention announces the availability of fiscal year (FY) 2002 funds for a competitive grant program to develop and identify integrated and innovative uses of surveillance data by demonstration projects at the state and local level, utilizing surveillance data on Sexually Transmitted Diseases (STDs), Human Immunodeficiency Virus (HIV) infection, Tuberculosis (TB), reproductive health outcomes, risk behaviors, and health services. This program addresses the ''Healthy People 2010'' focus areas of education and community-based programs, family planning, health communications, HIV infection, immunization and infectious diseases, public health infrastructure and STD.

The primary purpose of these awards is to expand on the initial activities of the Reinventing Surveillance System for Communicable Disease Prevention: Linking Morbidity, Risk Behaviors, and Reproductive Health Outcomes grant, Announcement Number 707, by demonstrating how such systems can result in improved programs, enhanced surveillance, and disease prevention activities. It is expected that sites funded as a part of this award will demonstrate how their programs are improved as a result of integrating data sources, utilizing new technology, and by involving community members in the interpretation and analyses of surveillance data. It should be noted that ''community members'' refers not only to those who are infected and affected by the various diseases, but also the components of the program's authorizing environment that develops, implements, and would be needed to otherwise support policies pertaining to STDs and related public health issues.

Additional goals for these awards are to enhance surveillance relevant for gonorrhea (GC) prevention programs by promoting: (1) Enhanced GC data collection, (2) the interpretation and use of existing state and local surveillance data to better describe persons who contract GC, (3) the collection of behavioral data to further assist in defining the characteristics of this population, (4) use of these data to improve GC prevention planning and strengthen evaluation of public health programs addressing this disease, and (5) an increased understanding of associated adverse reproductive health outcomes relative to this infection.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for HIV, STD, and TB Prevention (NCHSTP):

(1) Reduce STD rates by providing chlamydia and gonorrhea screening, treatment, and partner treatment of fifty percent of women in publicly funded family planning and STD clinics nationally.

(2) Reduce the incidence of primary and secondary syphilis.

(3) Reduce the incidence of congenital syphilis.

(4) Improve the ability of the nation's HIV/AIDS surveillance system to determine the incidence and prevalence of HIV infection.

(5) Improve the ability to measure access to care, adherence to treatment, and impact of therapy on long-term survival of persons with HIV/AIDS.

(6) Through the implementation of HIV prevention programs, reduce the number of cases of HIV infection and AIDS: (1) Acquired heterosexually, (2) related to injecting drug use, (3) associated with male-to-male homosexual contact, and (4) acquired perinatally.

(7) Eliminate tuberculosis in the United States.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 318 of the Public Health Service Act, [42 U.S.C.A. section 247c]. The Catalog of Federal Domestic Assistance number is 93.977.

C. Eligible Applicants

Limited Competition

Assistance will be provided only to state and local health departments that were previously funded under the Reinventing Surveillance System for Communicable Disease Prevention: Linking Morbidity, Risk Behaviors, and Reproductive Health Outcomes grant, Announcement Number 707, specifically: Baltimore, California, Florida, Indiana, Massachusetts, Michigan, Missouri, New York City, New York State, North Carolina, Ohio, Oregon, San Francisco, Texas, Virginia and Washington.

Competition is limited to these states and local health departments to build on the experiences and integrated surveillance approaches and expertise these sites gained under Announcement Number 707.

D. Availability of Funds

Approximately $1,200,000 is available in FY 2002 to fund approximately eight to ten awards. It is expected that the average award will be $150,000, ranging from $125,000 to $175,000. It is expected that the awards will begin on or about September 30, 2002, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may not be used to support laboratory testing, laboratory personnel, medical personnel to perform clinical evaluations, or to purchase pharmaceuticals. These funds may not be used to duplicate existing

surveillance activities funded under other program announcements.

Matching funds is not a requirement for this program announcement.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

1. Convene at CDC during the first quarter of year one to present-funded proposals and to discuss: (a) Proposed project activities, (b) plans for implementation of enhanced GC surveillance activities, and (c) plans for development of a document that will describe project achievements and could facilitate replication of project activities by others.

2. Demonstrate how local programs have already been improved as a result of the innovative uses of the data and information possible because of Announcement Number 707 funding. (This should include examples of specific changes, such as the way the program: (a) Conducts public health surveillance, (b) distributes resources, (c) collects data, (d) interacts with community members, (e) works across programs within and outside the local health unit, (f) targets prevention activities. Applicants should include a description of how findings and experiences have been translated into ongoing program efforts and how local findings from analyses have been disseminated and used by the local STD program.

3. Identify, develop, and implement new and innovative approaches for enhancing STD, TB, and HIV prevention programs using data and information generated under Announcement #707. Identify and implement ways to evaluate the approaches, considering the specific program activities, such as those cited in program requirement number two.

4. Collaborate on the development of a report to CDC that clearly describes the activities funded under Announcement Number 707 throughout its various stages, summarize project activities, findings, time lines, costs, evaluations, etc. A clear description of how these activities altered program resources, activities, and effectiveness, how the projects were implemented, and the expectations for sustaining such functionality after funding expires, should be included.

5. Use existing data, to develop a comprehensive descriptive analysis of the persons infected with gonorrhea (which could include but not be limited to demographic characteristics, behavioral factors, extent of co-morbidity with other STDs, antimicrobial susceptibility patterns, disease intervention initiatives, geo-coding and mapping of disease areas, intervention efforts that work, collaborations, etc.).

6. Develop methods for obtaining behavioral data and other enhanced surveillance data in persons diagnosed and reported with (GC).

7. Meet at CDC early in the second year of the project to discuss progress and develop a more common approach based on findings from year one experiences, to address GC surveillance objectives.

F. Content

Letter of Intent (LOI)

An LOI is required for this program. The program announcement title and number must appear in the LOI. The narrative should be no more than one page, single spaced, and printed on one side with one inch margins, and unreduced fonts. Your LOI will be used to enable CDC to determine level of interest in the announcement and prepare for the review process. Applications will only be accepted from those sites submitting an LOI. The LOI should include, at a minimum, your intent to apply for this application and the contact person(s).

Applications

The program announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than fifteen pages, double-spaced, printed on one side, with one-inch margins and unreduced fonts, and with a number on each page.

The narrative should consist of, at a minimum, a plan, objectives, methods, evaluation, and line-item budget with justifications.

G. Submission and Deadline

Letter of Intent (LOI)

On or before July 29, 2002, submit the requested LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this Announcement.

Application

Submit the original and two copies of the application Form PHS 5161–1 (OMB Number 0920–0428), and one copy of the programmatic narrative content, in electronic format, on a three and a half-inch double-sided, high density diskette, in WordPerfect 5.1 or ASCII. Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.* Forms may also be obtained by contacting the Grants Management Specialist in the ''Where to Obtain Additional Information'' section of this announcement.

Forms may not be submitted electronically.

Application forms must be submitted in the following order:

Cover Letter
Table of Contents
Application
Budget Information Form
Budget Justification
Checklist
Assurances
Certifications
Disclosure Form
HIV Assurance Form (if applicable)
Human Subjects Certification (if applicable)
Indirect Cost Rate Agreement (if applicable)
Narrative

The application must be received by 5 p.m. Eastern Time August 19, 2002. Submit the application to: Technical Information Management Section, Program Announcement 02211, 2920 Brandywine Road, Suite 3000, Atlanta, Georgia 30341.

Deadline: Letters of intent and applications will be considered as meeting the deadline if they are received before 5 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Letter of Intent (LOI)

The letter of intent, though required, will not be evaluated.

Application

Applicants are required to provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant or cooperative agreement. Measures of Effectiveness must relate to the performance goal (or goals) as stated in section ''A. Purpose'' of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These Measures of Effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Enhance GC Case Surveillance (20 points)

Quality of a proposed plan to enhance GC case surveillance with behavioral and other data elements. The extent to which methods are sound and analyses will describe a representative sample of all persons reported to have gonorrhea. Extent to which methods are sustainable and can be incorporated into routine GC case surveillance.

2. Collaboration (15 points)

The extent to which applicant demonstrates that it has access to a wide range of data and data sources that could be useful for improving STD, TB, or HIV/AIDS prevention programs. This could include data from disease case reports, from prevalence monitoring activities, from vital statistics records, behavioral surveys, data regarding the availability of prevention, outreach, and health care services, and other data related to socio-economic conditions that may have a bearing on morbidity. Letters of support from collaborators should be included when appropriate.

3. Plans To Strengthen Prevention Programs (15 points)

The extent to which applicant is able to identify and develop innovative approaches for using data and information already generated through Announcement Number 707 to strengthen STD/HIV/TB prevention programs. Consider quality of the plan, including clarity of objectives, soundness of the applicant's approach, achievable timeline, and documentation of the applicant's ability to complete proposed plan within the project period.

4. Evaluation Plans (15 points)

The extent to which applicant is able to identify and develop new and innovative ways to evaluate efforts to enhance programs. Soundness of the evaluation plans, along with concrete examples of how evaluation efforts will be undertaken, achievable timeline, and documentation of the applicant's ability to complete proposed plans within the project period.

5. Capacity (15 points)

Staff capacity to conduct enhanced surveillance, data management, proposed analyses, and evaluation plans. Project staff should have appropriate background and experience record to perform proposed work.

6. Sustain-ability (10 points)

Sustain-ability of the project, as determined by the extent to which project activities have continued to be carried out as a collaboration among health department units. Continued health department collaborations and community involvement should be documented by letters of support.

7. Goals (5 points)

The extent to which the applicant has set forth performance goals and measures of outcomes as they relate to the Measures of Effectiveness (Section A).

8. Inclusion of Women and Minorities (5 points)

The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed activities. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.
2. The proposed justification when representation is limited or absent.
3. A statement as to whether the design of the study is adequate to measure differences when warranted.
4. A statement as to whether the plans include the process of establishing partnerships with communities and recognition of mutual benefits.

9. Protection of Human Subjects

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable).

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports (The progress report will include a data requirement that demonstrates measures of effectiveness).
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Other Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the application kit.

AR–1 Human Subjects Requirements
Before a grant or a cooperative agreement can be awarded, an Institutional Review Board must certify a review (described in 45 CFR Part 46). Continuing review is also required.

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–4 HIV/AIDS Confidentiality Provisions

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address—*http://www.cdc.gov*. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For business management assistance, contact: Gladys Gissentanna, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone number: (770) 488–2753, Email Address: *gcg4@cdc.gov*.

For program technical assistance, contact: Dorotha Thomas, Project Consultant, National Center for HIV, STD, TB Prevention (NCHSTP), Division of STD Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., MS E–02, Atlanta, GA, 30333, Telephone number: 404–639–8425, Email Address: *dit1@cdc.gov*; or Hillard Weinstock, National Center for HIV, STD, TB Prevention (NCHSTP),

Division of STD Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., MS E–02, Atlanta, GA, 30333, Telephone number: 404–639–2059, Email Address: *hsw2@cdc.gov*.

Dated: July 12, 2002.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–18105 Filed 7–18–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

The President's New Freedom Commission on Mental Health; Notice of Web-Based Public Comment Section

Pursuant to Executive Order 13263, notice is hereby given of the web-based public comment section of the President's New Freedom Commission on Mental Health's website, *www.MentalHealthCommission.gov.*

The President's New Freedom Commission on Mental Health is soliciting public comment from stakeholders in the mental health community. The purpose of obtaining public comment is to assist the Commission in formulating an action plan for the President that will improve America's mental health service delivery system.

While all relevant comments are of interest and may be submitted to the Commission at any time, several topics will be listed on the website for public comment. All selected topics for public comment reflect the President's charge, as outlined in Executive Order 13263. The topics listed on the website will change, focusing first on identifying problems and barriers within the system, and later on identifying solutions. Comments relating to the first set of topics will be most helpful to the Commission if submitted by August 20, 2002. An additional set of topics will be posted after that time.

All comments received prior to December 31, 2002 will be collected and the themes will be included in Commission reports. Comments will still be accepted after December 31, 2002 and will be available for Commissioner review.

The public may provide comments to the Commission through three methods:

(1) The Web site, *www.MentalHealthCommission.gov.* Comments that relate to topics on the web page can be sent electronically or printed off and mailed to the Commission: 5600 Fishers Lane, Parklawn Building, Room 13C–26, Rockville, MD 20857;

(2) Mail written comments or information to the Commission; or

(3) Present comments directly to the Commission during the public comment period held at every Commission meeting. For guidelines on presenting public comment, visit the Web site, *www.MentalHealthCommission.gov.*

Committee Name: President's New Freedom Commission on Mental Health

Contact: Claire Heffernan, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 13C–26, Rockville, MD 20857, Telephone: (301) 443–1545; Fax: (301) 480–1554 and e-mail: *Cheffern@samhsa.gov*

Dated: July 15, 2002.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–18183 Filed 7–18–02; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–29]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be the excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for

use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Ms. Barbara Jenkins, Air Force Real Estate Agency, (Area-MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; DOT: Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; ENERGY: Mr. Tom Knox, Department of Energy, Office of Engineering & Construction Management, CR–80, Washington, DC 20585; (202) 586–8715; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers)

Dated: July 11, 2002.

Mark R. Johnson,

Deputy Director, Office of Special Needs Assistance Programs.

TITLE V. FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 7/19/02

Suitable/Available Properties

Buildings (by State)

Alabama

Coosa River Storage Annex
Anniston Army Depot
Talladega Co: AL 35161–
Landholding Agency: GSA
Property Number: 54200230001
Status: Excess
Comment: 136 Storage igloos, two cemeteries, sentry bldg., ofc. bldg., admin. bldg. in poor condition on 2834 acres
GSA Number: 4–J–AL–541

Guam

6 Bldgs.
NCTS Radio Barrigada
Wenger Way
Marianas Co: GU
Location: #101, 103, 105, 107, 109, 111
Landholding Agency: Navy
Property Number: 77200230017
Status: Excess
Comment: 11,476 sq. ft. housing units, need major rehab

Pennsylvania

Bristol Social Security Bldg.
1776 Farragut St.
Bristol Co: Bucks PA 19007–
Landholding Agency: GSA
Property Number: 54200230002
Status: Surplus
Comment: 7569 sq. ft., most recent use—office
GSA Number: 4–G–PA–792

Suitable/Unavailable Properties

Buildings (by State)

Colorado

Bldg. 100
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230001
Status: Excess
Comment: 7760 sq. ft., most recent use—admin/electronic equip. maintenance

Bldg. 101
La Junta Strategic Range
Landholding Agency: Air Force
Property Number: 18200230002
Status: Excess
Comment: 336 sq. ft., most recent use—storage

Bldg. 102
La Junta Strategic Range
Landholding Agency: Air Force
Property Number: 18200230003
Status: Excess
Comment: 1056 sq. ft., most recent use—storage

Colorado

Bldg. 103
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230004
Status: Excess
Comment: 784 sq. ft., most recent use—storage

Bldg. 104
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230005
Status: Excess
Comment: 312 sq. ft., most recent use—storage

Bldg. 106
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230006
Status: Excess
Comment: 100 sq. ft., most recent use—storage

Unsuitable Properties

Buildings (by State)

California

Bldg. 3273
Naval Base
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200230002
Status: Excess
Reason: Extensive deterioration

Bldg. 25
Naval Base Coronado
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200230003
Status: Excess
Reason: Extensive deterioration

Bldg. 338
Naval Base Coronado
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200230004
Status: Excess
Reason: Extensive deterioration

Bldg. 607
Naval Base Coronado
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200230005
Status: Excess
Reason: Extensive deterioration

Bldg. 609
Naval Base Coronado
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200230006
Status: Excess
Reason: Extensive deterioration

Bldg. 691
Naval Base Coronado
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200230007
Status: Excess
Reason: Extensive deterioration

Hawaii

Facility 9
Fleet Industrial Supply
Waipahu Co: HI 96797–
Landholding Agency: Navy
Property Number: 77200230008
Status: Excess
Reasons: Secured Area Extensive deterioration

Facility 4
NCTAMS PAC
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77200230009
Status: Excess
Reason: Secured Area

Facility 88
NCTAMS PAC
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77200230010
Status: Excess
Reason: Secured Area

Landholding Agency: DOT
Facility 295
NCTAMS PAC
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77200230011
Status: Excess
Reason: Secured Area

18 Bldgs.
Hale Moku Pearl Harbor
113–117, 119–122, 200–208
Honolulu Co: HI 96818–
Landholding Agency: Navy
Property Number: 77200230012
Status: Excess
Reason: Extensive deterioration

Bldg. RPFN No2
Coast Guard ISC
Honolulu Co: HI 96819–
Property Number: 87200230001
Status: Unutilized
Reason: Secured Area

Bldg. RPFN No3
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230002
Status: Unutilized
Reason: Secured Area

Bldg. RPFN No4
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 872300230003
Status: Unutilized
Reason: Secured Area

Bldg. RPFN No9
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230004
Status: Unutilized
Reason: Secured Area

Bldg. RPFN P11
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230005
Status: Unutilized
Reason: Secured Area

Bldg. RPFN N13
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230006
Status: Unutilized
Reason: Secured Area

Bldg. RPFN W14
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230007
Status: Unutilized
Reason: Secured Area

Bldg. RPFN W15
Coast Board ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230008
Status: Unutilized
Reason: Secured Area

Bldg. RPFN W16
Coast Board ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200230009
Status: Unutilized
Reason: Secured Area

Maryland

Structure 145
Naval Surface Warfare Center
W. Bethesda Co: MD 20817–
Landholding Agency: Navy
Property Number: 77200230013
Status: Underutilized
Reason: Secured Area

New Mexico

6 Bldgs.
Kirtland Air Force Base
#852, 874, 9939A, 6536, 6636, 833A
Albuquerque Co: NM 87185–
Landholding Agency: Energy
Property Number: 41200230001
Status: Excess
Reason: Secured Area

Tenessee

Bldg. 9720–14
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200230002
Status: Excess
Reason: Secured Area

6 Bldgs.
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Location: 9983–62, 9983–63, 9983–64, 9983–65, 9983–71, 9983–72
Landholding Agency: Energy
Property Number: 41200230003
Status: Excess
Reason: Secured Area

Virginia

Bldg. 2250
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200230014
Status: Excess
Reason: Extensive deterioration

Bldg. 819
Marine Corps Base
Geiger Ridge
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200230015
Status: Excess
Reason: Extensive deterioration

Bldg. B–2108
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200230016
Status: Excess
Reason: Extensive deterioration

Land (by State)

California

CB Rifle Range
Point Mugu Co: Ventura CA 93042–5000
Landholding Agency: Navy
Property Number: 77200230001
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

[FR Doc. 02–17927 Filed 7–18–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collections Submitted to the Office of Management and Budget for Approval Under the Paperwork Reduction Act for Grants Programs Authorized by the North American Wetlands Conservation Act (NAWCA)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has submitted the material described below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of the specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address provided below.

DATES: Consideration will be given to all comments received on or before August 19, 2002. The 60 day notice was published in the **Federal Register** on February 6, 2002 (67 FR 5608). No comments were received during the 60 day period.

ADDRESSES: Send your comments and/or suggestions on the requirement to the Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725—17th Street, NW., Washington, DC 20503, with a copy to Rebecca Mullin, Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 1849 C Street, NW., Washington, DC 20240; telephone number 703.358.2287.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at 703/358–2287, or electronically to *rmullin@fws.gov.* For information related to the grant program, which is the subject of the information collection approval, please log onto *http://birdhabitat.fws.gov.*

SUPPLEMENTARY INFORMATION: The OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). On May 26, 1999, the U.S. Fish and Wildlife Service (Service) was given regular approval by OMB for collection of information in order to continue the grants programs

currently conducted under the North American Wetlands Conservation Act (Pub. L. 101–233, as amended; December 13, 1989). The assigned OMB information collection control number is 1018–0100, and approval expired on May 31, 2002. However, OMB has extended the period of approval through August. The Service is requesting a three year term of approval for this information collection activity. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

Title: Information Collection In Support of Grant Programs Authorized by the North American Wetlands Conservation Act of 1989 (NAWCA).

Approval Number: 1018–0100.

Service Form Number(s): N/A.

Description and Use: The North American Waterfowl Management Plan (NAWMP), first signed in 1986, is a tripartite agreement among Canada, Mexico and the United States to enhance, restore and otherwise protect continental wetlands to benefit waterfowl and other wetland associated wildlife through partnerships between and among the private and public sectors. Because the 1986 NAWMP did not carry with it a mechanism to provide for broadly-based and sustained financial support for wetland conservation activities, Congress passed and the President signed into law the NAWCA to fill that funding need. The purpose of NAWCA, as amended, is to promote long-term conservation of North American wetland ecosystems and the waterfowl and other migratory birds, fish and wildlife that depend upon such habitat through partnerships. Principal conservation actions supported by NAWCA are acquisition, enhancement and restoration of wetlands and wetlands-associated habitat.

As well as providing for a continuing and stable funding base, NAWCA establishes an administrative body, i.e., Council, made up of a State representative from each of the four Flyways, three representatives from wetlands conservation organizations, the Secretary of the Board of the National Fish and Wildlife Foundation, and the Director of the Service. This North American Wetlands Conservation Council is exempt from the requirements of Public Law 92–463 (Federal Advisory Committee Act). As such, the purpose of the Council is to recommend wetlands conservation project proposals to the Migratory Bird Conservation Commission (MBCC) for funding.

Subsection (c) of Section 5 (Council Procedures) provides that the ''* * * Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section * * *,'' which are consideration of projects and recommendations to the MBCC, respectively. The means by which the Council decides which project proposals are important to recommend to the MBCC is through grants programs that are coordinated through the Council Coordinator's office within the Service's Division of Bird Habitat Conservation.

Competing for grant funds involves applications from partnerships that describe in substantial detail project locations and other characteristics, to meet the standards established by the Council and the requirements of NAWCA. The Council Coordinator's office no longer publishes and distributes Standard and Small Grants instructional booklets. Materials that describe the program and assist applicants in formulating project proposals for Council consideration are now available on a website, as previously noted. However, those who are not able to access a website may still obtain instructional materials by regular mail. There has been, virtually, no change in the scope and nature of these instructions since the OMB approval was first granted in 1999. Nonetheless, the instructional materials that include booklets, **Federal Register** notices on request for proposals, and other instruments are the basis for this information collection request for OMB clearance. Information collected under this program is used to respond to such needs as: audits, program planning and management, program evaluation, Government Performance and Results Act reporting, Standard Form 424 (Application For Federal Assistance), grant agreements, budget reports and justifications, public and private requests for information, data provided to other programs for databases on similar programs, Congressional inquiries and reports required by NAWCA, etc.

In summary, information collection under these programs is required to obtain a benefit, i.e., a cash reimbursable grant that is given competitively to qualifying applicants based on eligibility and relative scale of resource values involved in the projects. The information collection is subject to the Paperwork Reduction Act requirements for such activity, which includes soliciting comments from the general public regarding the nature and burden imposed by the collection.

Frequency of Collection: Occasional. The Small Grants program has one project proposal submissions window per year and the Standard Grants program has two per year.

Description of Respondents: Households and/or individuals; business and/or other for-profit; not-for-profit institutions; farms; Federal Government; and State, local and/or Tribal governments.

Estimated Completion Time: The reporting burden, or time involved in writing project proposals, is estimated to be 80 hours for a Small Grants submission and 400 hours for a Standard Grants submission.

Number of Respondents: It is estimated that 150 proposals will be submitted each year, 70 for the Small Grants program and 80 for the Standard Grants program.

Annual Burden Hours: 37,600.

Dated: June 19, 2002.

Steve A. Williams,

Director, Fish and Wildlife Service.

[FR Doc. 02–18298 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Draft Environmental Impact Statement, Section 10 Permit Application, Draft Roosevelt Habitat Conservation Plan and Draft Implementing Agreement for Incidental Take by the Salt River Project and Notice of a Public Hearing on August 27, 2002

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The Salt River Project (SRP) has submitted an application for an incidental take permit (ITP) for the following federally listed and candidate species: southwestern willow flycatcher (*Empidonax traillii extimus*)(flycatcher), Yuma clapper rail (*Rallus longirostris*

yumanensis) (clapper rail), (bald eagle (*Haliaeetus leucocephalus*), and the yellow-billed cuckoo (*Coccyzus americanus*)(cuckoo). The proposed take would occur in Gila and Maricopa counties, Arizona, as a result of management actions allowing Roosevelt Lake to fill, causing inundation of occupied habitat. The U.S. Fish and Wildlife Service (Service) has issued a draft Environmental Impact Statement (EIS) to evaluate the impacts of and alternatives for the possible issuance of an incidental take permit. SRP has completed the draft Roosevelt Habitat Conservation Plan (RHCP), along with a draft Implementing Agreement as part of the application package submitted to the Service (collectively, the ''Application'') as required by the Endangered Species Act of 1973, as amended (Act) for consideration of issuance of an ITP. The Application provides measures to minimize and mitigate the effects of the proposed taking of listed and candidate species and the habitats upon which they depend.

DATES: Written comments on the draft EIS and Application documents will be accepted within 60 days of the date of this publication.

ADDRESSES: Persons wishing to review the draft EIS and Application may obtain a copy by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021. Oral and written comments also will be accepted at a public hearing to be held on August 27, 2002, 6–9 p.m. at the offices of the Salt River Project, 1521 Project Drive, Tempe, Arizona.

Arizona has experienced a prolonged drought. Due to low runoff from the watershed, Roosevelt Lake, the largest reservoir on the watershed serving Phoenix, is drawn down to less than 20% of capacity. After many years of drought, it is imperative that SRP know whether it can fill the reservoir this coming winter without risk that unpermitted incidental ''take'' will occur. For this reason, the Service does not intend to extend the public comment period beyond 60 days unless warranted by extraordinary circumstances. If additional information is needed from the Service or SRP in order to evaluate the draft EIS or Application, that information should be requested within 30 days of the date of this notice.

FOR FURTHER INFORMATION, CONTACT: On the EIS, Contact: Ms. Sherry Barrett, Assistant Field Supervisor, Tucson Suboffice, U.S. Fish and Wildlife Service, 110 S. Church, Suite 3450, Tucson, AZ 85701 at 520/670–4617, or Mr. Jim Rorabaugh, Arizona State Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021 at 602/242–0210. For further information on the Application, Contact: Mr. John Keane, Executive Environmental Policy Analyst, Salt River Project, P.O. Box 52025, PAB355, Phoenix, AZ 85072–2025 at 602/236–5087, or Mr. Craig Sommers, President, ERO Resources Corporation, 1842 Clarkson Street, Denver, CO 80218 at 303/830–1188.

Read-only downloadable copies of the draft EIS and Application documents are available on the Internet at *http://www.arizonaes.fws.gov.* A printed or CD copy of the documents is available upon request to Virginia Kasper, Salt River Project, P.O. Box 52025, Phoenix, AZ 85072–2025; (602) 236–3416; *vckasper@srpnet.com.* Copies of the draft EIS and Application are also available for public inspection and review at the locations listed below under Supplementary Information.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act (NEPA), this notice advises the public that the Service has gathered the information necessary to (1) determine impacts and formulate alternatives for the EIS, related to the potential issuance of an ITP to SRP; and (2) develop and implement the RHCP, which provides measures to minimize and mitigate the effects of the incidental take of federally listed species to the maximum extent practicable, pursuant to section 10(a)(1)(B) of the Act.

Section 9 of the Act prohibits the ''taking'' of threatened and endangered species. However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR parts 13 and 17.

Copies of the draft EIS and Application are available for public inspection and review at the following locations (by appointment at government offices):

- Department of the Interior, Natural Resources Library, 1849 C. St. NW, Washington, DC 20240.
- U.S. Fish and Wildlife Service, 110 S. Church, Suite 3450, Tucson, AZ 85701
- U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021
- Salt River Project, 1521 Project Drive, Tempe, AZ 85281
- Globe Public Library, 339 S. Broad St., Globe, AZ 85501
- Government Document Service, Arizona State University, Tempe, AZ 85287
- Payson Public Library, 510 W. Main, Payson, AZ 85541
- Phoenix Public Library (Burton Barr Central), 1221 N. Central Ave., Phoenix, AZ 85004
- Tonto Basin Library, 1 School St., Tonto Basin (Punkin Center), AZ 85553

Written comments received by the Service become part of the public record associated with this action. Accordingly, the Service makes these comments, including names and home addresses of respondents, available for public review. Individual respondents may request that their home addresses be withheld from public disclosure, which will be honored to the extent allowable by law. There also may be circumstances in which a respondent's identity would be withheld from public disclosure, as allowable by law. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. However, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Background

Roosevelt is operated by SRP in conjunction with three other reservoirs on the Salt River and two reservoirs on the Verde River as integral features of the Salt River Reclamation Project, authorized by the Reclamation Act of 1902, and pursuant to a 1917 contract with the United States. Since completion in 1911, Roosevelt has provided water for power generation, irrigation, municipal, and other uses. Currently, SRP reservoirs supply water to more than 1.6 million people in the cities of Phoenix, Mesa, Chandler, Tempe, Glendale, Gilbert, Scottsdale, Tolleson, and Avondale. In addition, water is provided to irrigate agricultural lands within SRP and for other uses. Also, water is delivered to the Salt River Pima-Maricopa Indian Community, Fort McDowell Indian Community, Gila River Indian Community, Buckeye Irrigation Company, Roosevelt Irrigation District, Roosevelt Water Conservation District, and others. Roosevelt and the other SRP reservoirs also provide a variety of recreational uses and environmental benefits in central Arizona. Due to dry conditions in central Arizona for the past six years, the water level at Roosevelt has been

below normal. As a result, riparian vegetation has invaded and flourished in the portion of Roosevelt historically used by SRP to store water for use in the Phoenix metropolitan area. Animals that use riparian habitat have followed the vegetation growth and now occupy areas within the reservoir. In particular, a population of flycatchers now occupies habitat within the storage space at Roosevelt. Thus, periodic refilling of the reservoir may adversely affect habitat used by the flycatcher, clapper rail, bald eagle, and cuckoo.

Proposed Action

The proposed action is the issuance of an ITP for flycatchers, clapper rails, bald eagles, and cuckoos for SRP's operation of Roosevelt, pursuant to section 10(a)(1)(B) of the Act. The activity that would be covered by the permit is the continued operation of Roosevelt by SRP. The area covered by the permit includes Roosevelt up to an elevation of 2,151 feet, the highest point in the reservoir at which water is stored. The requested term of the permit is for a period of 50 years. To meet the requirements of a Section 10(a)(1)(B) permit, SRP has developed and will implement the RHCP, which provides measures to minimize and mitigate incidental take of flycatchers, clapper rails, and bald eagles to the maximum extent practicable, and which ensures that the incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild. The RHCP also addresses potential impacts on a candidate species, the yellow-billed cuckoo.

Alternatives

Two other alternatives being considered by the Service include the following:

1. *No Permit*—No issuance of an ITP by the Service. This alternative would require SRP to do everything within its control to avoid any take of federally listed species associated with its continued operation of Roosevelt.

2. *Re-operation Alternative*—Issuance of an ITP by the Service authorizing the modified operation of Roosevelt to reduce the short-term impact of reservoir operations on listed and candidate species. This alternative includes measures to minimize and mitigate the potential take of federally listed species.

H. Dale Hall,

Regional Director, Southwest Region.

[FR Doc. 02–17790 Filed 7–18–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–025–1232–EA–NV06; Special Recreation Permit # NV–023–02–11]

Notice of Temporary Closure to Public Lands; Pershing County and Washoe County, NV

AGENCY: Bureau of Land Management, Winnemucca Field Office, Nevada, Interior.

ACTION: Notice to the public of temporary public lands closures and prohibition of certain activities on public lands administered by the Bureau of Land Management, Winnemucca Field Office, Nevada.

SUMMARY: Notice is hereby given that certain lands will be temporarily closed or restricted, and certain activities would be temporarily prohibited, in and around the Burning Man event site, Pershing and Washoe counties, Nevada, for camping, vehicle use, fire use, and aircraft landing from 0600 hours, August 23, 2002, to 2200 hours, September 2, 2002. Certain lands will be temporarily closed or restricted, and certain activities will be temporarily prohibited, in the Winnemucca District in Pershing and Washoe Counties, Nevada, for fireworks use and firearms use from 0600 hours, August 12, 2002, to 2200 hours, September 16, 2002. These closures, restrictions and prohibitions are being made in the interest of public safety at and around the public lands location of an event known as the Burning Man Festival. This event is expected to attract approximately 28,000 participants this year. The lands involved are located in the Mount Diablo Meridian and located northeast of Gerlach, Nevada.

Public Camping Within One Mile of the Fence is Prohibited in the Following Areas: T. 33 N., R. 24 E, Sec. 1: W½; Sec. 2; Sec. 3; Sec. 4; Sec. 9; Sec. 10; Sec. 11; Sec. 12: W½ ; Sec. 15: N½ of the NW¼; Sec. 16: N½ and T. 33½ N., R. 24 E., Sec. 33; Sec. 34; Sec. 35; Sec. 36: W½ . These areas are closed during the event period, August 23, 2002 to September 2, 2002, with the exception of defined camping areas designated and provided by the Black Rock City LLC, an authorized ''pilot camp'' and BLM-authorized event management-related camps.

Operation of Motorized Vehicles, within One Mile of the Fence, at Such a Rate of Speed that it Causes a Dust Plume higher than the Roof of the Vehicle, is Prohibited in the Following Areas: T. 33 N., R. 24 E, Sec. 1: W½ ; Sec. 2; Sec. 3; Sec. 4; Sec. 9; Sec. 10; Sec. 11; Sec. 12: W½ ; Sec. 15: N½ of the NW¼; Sec. 16: N½ and T. 33½ N., R. 24 E., Sec. 33; Sec. 34; Sec. 35; Sec. 36: W½ . These areas are closed during the event period, August 23, 2002 to September 2, 2002, with the exception of BLM, medical, law enforcement, firefighting vehicles and Burning Man staff as designated by the BLM Authorized Officer.

Operation of Motorized Vehicles Is Prohibited on the Following Public Lands: T. 33 N., R. 24 E., Sec. 2, Sec. 3, Sec. 4, Sec. 9, Sec. 10, Sec. 11 and T. 33½ N., R. 24 E, Sec. 33; Sec. 34; Sec. 35. These areas within the event boundary are closed during the Burning Man event, from August 23, 2002 to September 2, 2002, with the following exceptions: participant arrival at the event and departure following event completion on designated routes, art vehicles registered with Burning Man; Black Rock City LLC staff and support, BLM, medical, law enforcement, firefighting vehicles and motorized skateboards with/without handlebars. ''Art Cars'' must register with Burning Man/Black Rock City LLC and must provide evidence of registration at all times.

The Following Public Lands are Closed to Public Use: T. 33 N., R. 24 E., Sec. 4: NE¼, S½; Sec. 5: SE¼; Sec 8: NE¼, S½ ; Sec. 9; Sec. 10: W½; Sec. 15: N½ of the NW¼; Sec 16: N½ and T33½ N, R24E, Sec. 33: SE¼; Sec. 34: SW¼. For event safety near the entrance road and airstrip, playa areas southwest, west and northwest of the event are closed during the Burning Man event period, from 0001 hours August 26, 2002 to 2200 hours September 2, 2002, with the exception of BLM personnel, law enforcement, emergency medical services, Burning Man staff as designated by the BLM authorized officer.

Black Rock City LLC/Burning Man will abide by fire restriction orders, except for the following as officially approved by Black Rock City LLC in coordination with BLM: Official art burns, authorized event fireworks, and other authorized fires only in Black Rock City LLC/Burning Man-supplied fire barrels and approved platforms. Fire Restriction Orders may be in effect pursuant to 43 CFR 9212.2, 36 CFR 261.50(a)(b) for all lands managed by the BLM, Winnemucca Field Office.

The use, sale or possession of personal fireworks within the Burning Man Event/Black Rock City boundary fence is prohibited on the following public lands from August 26, 2002, through September 2, 2002: T. 33 N., R. 24 E., Sec. 2; Sec. 3; Sec. 4; Sec. 9; Sec. 10; Sec. 11 and T. 33½ N., R. 24 E., Sec.

33; Sec. 34; Sec. 35, with the exception of those fireworks that have been approved by Black Rock City LLC as part of an official Burning Man art burn event.

Possession of Firearms Is Prohibited on the Following Public Lands from August 12, 2002, through September 16, 2002: T. 33 N., R. 24 E., Sec. 2; Sec. 3; Sec. 4; Sec. 9; Sec. 10; Sec. 11 and T. 33½ N., R. 24 E., Sec. 33; Sec. 34; Sec. 35. This closure is in effect inside the Burning Man event/Black Rock City boundary fence, with the exception of county, state and federal certified law enforcement personnel under the color of law. ''Firearm'' means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion (Nevada Revised Statute 202.253).

Discharge of Firearms is Prohibited on the Following Public Lands from August 12, 2002, through September 16, 2002: T. 33 N., R. 24 E., Sec. 1; Sec. 2; Sec. 3; Sec. 4; Sec. 5; Sec 6: E½; Sec 8; Sec. 9; Sec. 10; Sec. 11; Sec. 12; Sec. 13: N½; SW¼; Sec. 14; Sec. 15; Sec. 16; Sec. 17: E½, NW¼; Sec. 21: NE¼; Sec. 22: N½, Sec. 23: NW¼ and T. 33 N., R. 25 E., Sec. 4; Sec. 9: W½ , NW¼ of the NE¼ and T. 33½ N., R. 24 E., Sec. 25; Sec. 26; Sec. 27; Sec. 28; Sec. 29; Sec. 32; Sec. 33; Sec. 34; Sec. 35; Sec. 36; T. 34 N., R. 24 E., Sec. 33: NE¼, S½; Sec. 34; Sec. 35; Sec. 36: S½; T. 34 N., R. 25 E., Sec. 33. This closure description applies for two miles in all directions from the event boundary, with the exception of law enforcement officers under color of law.

Aircraft are prohibited from landing, taking off, and taxiing on the following public lands from 0600 hours on August 26, 2002, through September 2, 2002 at 2200 hours: T. 33 N., R. 23 E., Sec. 25: E½; T. 33 N., R. 24 E., Sec. 1; Sec. 2; Sec. 3; Sec. 4; Sec. 5: SE¼; Sec. 8: NE¼, S½; Sec. 9; Sec. 10; Sec. 11; Sec.12; Sec. 13: W½;. Sec. 14; Sec. 15; Sec. 16; Sec. 17; Sec. 18: NE¼, S½; Sec 19; Sec. 20; Sec. 21; Sec. 22: N½; Sec. 28: NW¼; Sec. 29; Sec. 30: NE¼ and T. 33 N., R. 25 E., Sec. 2: N½; Sec. 3: N½; Sec. 4 and T33½N, R24E, Sec. 25; Sec. 26; Sec. 27; Sec. 28; Sec. 33; Sec. 34; Sec. 35; Sec. 36 and T34N, R24E, Sec. 23: NE¼, S½; Sec. 24; Sec. 25; Sec. 26; Sec. 27: SE¼; Sec. 33: E½; Sec. 34; Sec. 35: Sec. 36 and T. 34 N., R. 25 E., Sec. 16; Sec. 21; Sec. 22: S½; Sec 26: SW¼; Sec 27; Sec. 28; Sec. 33; Sec. 34; Sec. 35. This closure description applies to the playa for five miles in all directions from the event boundary during the event, with the exception of an authorized Burning Man event landing strip for Burning Man staff and participants, law enforcement and emergency medical services. This airstrip is the only location Burning Man-related aircraft may land, with the exception of emergency aircraft such as Care Flight, Sheriff's Office or Medical Ambulance Transport System helicopters.

A map showing these temporary closures, restrictions and prohibitions is available from the following BLM office: BLM-Winnemucca Field Office, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445.

The map may also be viewed on the Field Office website at: www.nv.blm.gov/winnemucca.

DATES: Closure to Possesion and Discharge of Firearms August 12, 2002, to September 16, 2002; Closure to Camping, Vehicle Use and Aircraft Landing August 23, 2002 to September 2, 2002; and Closure to Possession of Fireworks and Public Use August 26, 2002 to September 2, 2002.

FOR FURTHER INFORMATION CONTACT: Dave Cooper, National Conservation Area Manager, Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445, telephone: (775) 623–1500.

Authority: 43 CFR 8364.1

Penalty: Any person failing to comply with the closure orders may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571, or both.

Terry Reed,

Field Office Manager.

[FR Doc. 02–17975 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT_039_1020PB]

Notice of Public Meeting; Dakotas Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Dakotas Resource Advisory Council (RAC), North and South Dakota, meeting will be held as indicated below. Topics for discussion will include: Fort Meade NHL status, Cedar Hills Oil and Gas Overview, ND Prairie Dog plan, Fuels Management Plan Input from Sub Committee, Biological Weed Control on Leafy Spurge and Sage Grouse and other topics the council may raise. The meeting will be held August 12 & 13, 2002, at the Best Western, Dickinson, North Dakota. The session will convene at 8 a.m. on August 12.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and a public comment period is set for 8 a.m. on August 12, 2002. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per-person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying.

The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the Dakotas.

FOR FURTHER INFORMATION CONTACT: Douglas Burger, Field Office Manager, North Dakota Field Office, 2933 3rd Ave W., Dickinson, North Dakota. Telephone (701) 227–7700.

Dated: May 29, 2002.

Douglas Burger,

Field Office Manager.

[FR Doc. 02–18244 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1120–PG]

Notice of Address Change for Challis Field Office, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of address change, Challis Field Office, Idaho.

SUMMARY: The address for the Bureau of Land Management office in Challis, Idaho, will be changing on or about September 1, 2002. The new address will be: 801 Blue Mountain Road, Challis, Idaho 83226. All telephone numbers for the Challis Field Office will remain the same.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, BLM Challis Field Manager, HC 63, Box 1670, Challis, Idaho 83226 or telephone (208) 879–6200.

Dated: July 10, 2002.

Stephanie Snook,

Acting District Manager.

[FR Doc. 02–18243 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00] ES–047170, Group 152, Wisconsin

Notice of Filing of Plat of Survey; Wisconsin, Stay Lifted

On Thursday, May 4, 1995, there was published in the **Federal Register**, Volume 60, Number 96, on page 26736, a notice entitled, ''Notice of Filing of Plat of Survey; Stayed.'' Said notice referenced the say of the plat depicting the survey of two islands located in Township 8 North, Range 21 East, Fourth Principal Meridian, Wisconsin, accepted March 13, 1995.

The protest against the survey was withdrawn on June 20, 2002, and the plat of survey accepted March 13, 1995, was officially filed in Eastern States Office, Springfield, Virginia, at 7:30 a.m. on June 24, 2002.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: July 2, 2002.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 02–18233 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Issue a Temporary Concession Contract for Food and Beverage, Lodging and Merchandise Services at Oregon Caves National Monument

SUMMARY: Pursuant to the National Park Service Concessions Management Improvement Act of 1998, notice is hereby given that the National Park Service intends to issue a temporary concession contract authorizing continued operation of food and beverage, overnight lodging and merchandise services to the public within Oregon Caves National Monument. The temporary concession contract will be for a term of 5 months. This short-term concession contract is necessary to avoid interruption of visitor services while the National Park Service finalizes the development of the Prospectus to be issued for a long-term concession contract. This short-term contract will be for a one seasonal operating period ending October 31, 2002. This notice is in pursuant to 36 CFR Part 51, Section 51.24(a).

SUPPLEMENTARY INFORMATION: The previous concession contract at Oregon Caves National Monument expired on September 30, 2001. The operation is seasonal and operates primarily from mid-May through mid-September and provides visitors with lodging, food and beverage and merchandise services. The National Park Service will be issuing a Prospectus for the solicitation of a long-term concession contract to provide commercial services within the park to the visiting public. The short-term concession contract will allow for the continuation of commercial services during this interim and avoid unnecessary interruption of visitor services.

Information about this notice can be sought from: National Park Service, Chief, Concession Program Management Office, Pacific West Region, Attn: Mr. Tony Sisto, 1111 Jackson Street, Oakland, California 94607, or call (510) 817–1366.

Dated: June 6, 2002.

Patricia Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 02–18291 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contracts and Permits; Notice

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to the terms of existing concession contracts, public notice is hereby given that the National Park Service intends to request a continuation of visitor services for a period not-to-exceed one year from the date of contract expiration.

SUPPLEMENTARY INFORMATION: The contract listed below has been extended to the maximum allowable under 36 CFR 51.23. Under the provisions of the current concession contract and pending the development and public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services for a period not-to-exceed one year under the terms and conditions of the current contract as amended. The continuation of operations does not affect any rights with respect to selection for award of a new concession contract.

Concessioner Id No.: Gate 017.

Concessioner Name: Jen Marine Development, LLC.

Park: Gateway National Recreation Area.

EFFECTIVE DATE: May 1, 2002.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC, 20240, Telephone 202/565–1210.

Dated: June 14, 2002.

Richard G. Ring,

Associate Director, Park Operations and Education.

[FR Doc. 02–18290 Filed 7–18–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–462]

In the Matter of Certain Plastic Molding Machines with Control Systems Having Programmable Operator Interfaces Incorporating General Purpose Computers, and Components Thereof, II; Notice of Commission Decision To Review and Reverse an Initial Determination Terminating the Investigation; Decision To Review ALJ Order No. 29; Schedule for Written Submissions

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and reverse the presiding administrative law judge's (''ALJ's'') initial determination (''ID'')(Order No. 30) terminating the above-captioned investigation. The Commission has also determined to review ALJ Order No. 29 on its own motion, and to hold in abeyance the petitions for review of Order No. 29 that were filed in this investigation.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3104. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade

Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the above-referenced investigation on August 23, 2001, based on a complaint filed by Milacron, Inc. (Milacron) of Cincinnati, OH, against eleven respondents. 66 FR 44374 (2001). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) in the importation into the United States, sale for importation, and sale within the United States after importation of certain plastic molding machines with control systems having programmable operator interfaces incorporating general purpose computers, and components thereof, by reason of infringement of claims 1–4 and 9–13 of U.S. Patent No. 5,062,052. All named respondents have been terminated from the investigation on the basis of settlement agreements.

On April 18, 2002, Milacron filed a motion to amend the procedural schedule so that it would have an opportunity to file a motion for summary determination of violation of section 337 and to request a general exclusion order. On April 19, 2002, the Commission investigative attorney (IA) filed a response in support of Milacron's motion to amend the procedural schedule. On April 24, 2002, the ALJ issued Order No. 27, granting Milacron's request to amend the procedural schedule in the investigation to allow Milacron the opportunity to file a motion for summary determination of violation and to seek a general exclusion order under Commission Rule 210.16(c)(2). On May 17, 2002, complainant filed its motion for summary determination and request for a recommendation supporting a general exclusion order. The IA supported the motion and request.

On June 11, 2002, the ALJ issued Order No. 29 which held that Milacron could not seek summary determination of violation and was not entitled to a recommended determination supporting a general exclusion order because of practical and Constitutional concerns in making an unopposed determination of violation of section 337. On June 18, 2002, the ALJ issued a one-paragraph ID (Order No. 30) terminating the investigation. On June 24 and June 25, 2002, respectively, Milacron and the IA petitioned for review of the ID and appealed Order No. 29.

Having examined the ALJ Order Nos. 29 and 30, and the petitions for review, the Commission has determined to review and reverse ALJ Order No. 30, which terminated the investigation. The Commission has also determined to review, on its own motion, the determination contained in ALJ Order No. 29 that the Commission has the statutory authority to issue a general exclusion order in an investigation in which all respondents have settled with complainant. Finally, the Commission has decided to hold in abeyance the petitions for review that were filed by Milacron and the IA pending its decision on the issue that it has determined to review.

Written Submissions

In order to complete its review, the Commission requests briefing from the parties on the issue under review. Briefs should address the statutory language of section 337(g)(2), 19 U.S.C. 1337(g)(2), and the legislative history of the provision. Briefs should also include a discussion of Commission rules 210.16(c)(1) and (2), 19 CFR 210.16(c)(1) and (2), as well as a discussion of the Commission's commentaries issued in connection with the promulgation of these rules. The commentaries are found in 53 FR 330432 *et seq.* (August 29, 1988); 57 FR 52830 *et seq.* (November 5, 1992); 59 FR 39020 *et seq.* (August 1, 1994). In addition, the briefs should address whether the Commission has the authority to issue a general exclusion order under section 337(d)(2), 19 U.S.C. 1337(d)(2), in an investigation in which all named respondents have settled with complainant. In this regard, the parties should address in particular the basis upon which a finding of violation of section 337 could be made in accordance with the Administrative Procedures Act in an investigation in which all respondents have settled and what showing the complainant needs to make in order to establish a finding of violation. Finally, the parties should address any policy implications that might be raised by a finding of violation of section 337 based on record evidence that relates solely to respondents that have settled with complainant and as to which the investigation has been terminated. Main briefs are due on August 1, 2002. Reply briefs, if any, are due on August 10, 2002.

Written submissions (the original document and 14 true copies thereof) must be filed with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.24, 210.43(d), 210.44, and 210.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.24, 210.43(d), 210.44, and 210.45).

Issued: July 15, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–18198 Filed 7–18–02; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: September 26–27, 2002.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Inn By The Sea, 40 Bowery Beach Road, Cape Elizabeth, Maine.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 12, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–18312 Filed 7–18–02; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 3–4, 2002.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: La Posada de Santa Fe, 330 East Palace Avenue, Santa Fe, NM.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 12, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–18313 Filed 7–18–02; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 10–11, 2002.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Cape Codder Resort, Route 132 & Bearse's Way, 1225 Iyanough Road, Hyannis, MA.

FOR FURTHER INFORMATION CONTACT: John K. Rabief, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC. 20544, telephone (202) 502–1820.

Dated: July 12, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–18314 Filed 7–18–02; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a one-day meeting. The meeting will be open to public observation but not participation.

DATES: October 18, 2002.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Renaissance Madison Hotel, 515 Madison Street, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 12, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–18315 Filed 7–18–02; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: November 18–19, 2002.

TIMES: 8:30 a.m. to 5 p.m.

ADDRESSES: Park Hyatt San Francisco, 333 Battery Street, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 12, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–18316 Filed 7–18–02; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Committee on Rules of Practice and Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: January 16–17, 2003.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Royal Palms Hotel and Casitas, 5200 East Camelback Road, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 12, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–18317 Filed 7–18–02; 8:45 am]

BILLING CODE 2210–SS–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 276–2002]

Privacy Act of 1974: System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice, Foreign Terrorist Tracking Task Force (FTTTF), proposes to modify the system of records entitled ''Flight Training Candidates File System, JUSTICE/FTTTF–001,'' published on June 10, 2002 (67 FR 39839). The FTTTF is modifying this system of records to add routine uses.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on the proposed routine uses. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, and certain Congressional committees, require a 40-day period in which to conclude review of the system.

Therefore, please submit any comment by August 19, 2002. The public, OMB and the Congress are invited to submit any comments to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a, the Department has provided a report to OMB and the Congress.

Dated: July 12, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

JUSTICE/FTTTF–001

System Name: Flight Training Candidates File System, FTTTF–001

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information may be disclosed from this system as follows:

A. To flight training providers and other entities or persons in order to verify information submitted by individual candidates, and to facilitate the necessary risk assessment.

B. To the United States Department of State or other federal entities concerned with visas or immigration matters for purposes of visa or status determinations and other risk warning and assessment programs administered by such Department or entities.

C. In the event that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, foreign, or tribal law enforcement authority or other appropriate agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

D. In an appropriate proceeding before a court or administrative or regulatory body when records are determined by the Department of Justice to be arguably relevant to the proceeding.

E. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in informal discovery proceedings.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

G. To officials and employees of a federal agency or entity, including the White House, which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance of a security clearance; the execution of a security or suitability investigation; the classification of a job; or the issuance of a grant or benefit.

H. To federal, state, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

I. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

J. To the news media and the public pursuant to 28 CFR § 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

K. To the General Services Administration and National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

L. To a former employee of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

M. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

* * * * *

[FR Doc. 02–18219 Filed 7–18–02; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Digital Subscriber Line Forum

Notice is hereby given that, on April 24, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The Digital Subscriber Line Forum (''DSL'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Best Data Products, Chatsworth, CA; Cesky Telecom, Praha, CZECH REPUBLIC; Copper Development Assoc., New York, NY; Corecess, Seoul, REPUBLIC OF KOREA; Gatespace AB, Goteborg, SWEDEN; Infineon Technologies, Munich, GERMANY; Linksys, Irvine, CA; Metro-Optix, Allen, TX; Nexans, Hickory, NC; Optimal Communications LTD, Gerrards Cross, Buckinghamshire, UNITED KINGDOM; Pedestal Networks, Palo Alto, CA; Silicom, Kfar-Sava, ISRAEL; Thomson Multimedia, Edegem, BELGIUM; and Valo Systems, Petaluma, CA, have been added as parties to this venture. In addition, 186K Ltd., Reading, Berkshire, UNITED KINGDOM; AccessLan Communications, San Jose, CA; Accton Technology, Hsinchu, TAIWAN; Acer Communications & Multimedia, Taipei, TAIWAN; Ahead Communications, Vienna, AUSTRIA; Anda Networks, San Jose, CA; Applied Innovation, Dublin, OH; Arca Technologies, Belfast, UNITED KINGDOM; ASUSTek Computer, Taipei, TAIWAN; Atlantic Telecom, Frankfurt, GERMANY; Avaya, Inc., Whippany, NJ; BABT, Santa Clara, CA; Banspeed, Austin, TX; BATM, Rosh Ha'ayin, ISRAEL; BayPackets, Menlo Park, CA; Bicotest, Cheshunt, Hertfordshire, UNITED KINGDOM; Broadband Gateways, Plano, TX; BroadJump, Austin, TX; Carrier Access Corporation, Boulder, CO; C–DOT, Bangalore, INDIA; Celestix Networks, Fremont, CA; Centre for Wireless Communications, Singapore, SINGAPORE; Charles Industries, Rolling Meadows, IL; Cirrus Logic, Boca Raton, FL; CIS Industries, Fremont, CA; Consultronics, Concord, Ontario, CANADA; Convergent Networks, Lowell, MA; Coreon, Staten

Island, NY; Corning Cable Systems, Keller, TX; Dataflex Design Communications, Sutton, Surrey, UNITED KINGDOM; DBTEL, Taipei, TAIWAN; Delta Products Corporation, Research Triangle Park, NC; D-Link, Hsinchu, TAIWAN; DT Magnetics, Ramona, CA; DV Tel. Inc., Totowa, NJ; EBONE, Hoeilaart, BELGIUM; Efficient Networks, Dallas, TX; Eicon Networks, Montreal, Quebec, CANADA; ELSA, Aachen, GERMANY; Energis Communications, Reading, Berkshire, UNITED KINGDOM; Epcos, Munich, GERMANY; e-Site, Tustin, CA; E-Tech, Hsinchu, TAIWAN; Fluke Networks, Inc., Everett, WA; General Cable, Highland Heights, KY; GlobaLoop, Hod Hasharon, ISRAEL; HarmonyCom, Petach-Tikva, ISRAEL; Hitachi, Yokohama, JAPAN; iMagicTV, Cambridge, UNITED KINGDOM; imajet.com, Singapore, SINGAPORE; Incognito Software, Vancouver, British Columbia, CANADA; InfiniLink Corporation, Irvine, CA; Institute for Information Industry (III), Taipei, TAIWAN; Integral Access, Chelmsford, MA; Interactive Enterprise Ltd., Dublin, IRELAND; ITI Limited, Bangalore, INDIA; Kenetec, Oxford, CT; Legerity, Austin, TX; LSI Logic, San Jose, CA; MCK Communications, Newton, MA; Midcom, Watertown, SD; Mitsubishi Electric Corporation, Kamakura, JAPAN; mPhase Technologies, Norwalk, CT; National Semiconductor, Santa Clara, CA; Navini Networks, Richardson, TX; NeoWave, Anyang-shi, REPUBLIC OF KOREA; Netensity, Plano, TX; Netility, Sunnyvale, CA; NightFire Software, Oakland, CA; Nortel Networks, Harlow, Essex, UNITED KINGDOM; Orckit Communications, Tel-Aviv, ISRAEL; PCTEL, Waterbury, CT; Premier Magnetics Inc., Lake Forest, CA; Profec Group, Nummela, FINLAND; Proscend Communication, Hsinchu, TAIWAN; QS Communications, Cologne, GERMANY; QuesCom SA, Valbonne, FRANCE; Radio Shack, Fort Worth, TX; RC Networks, San Diego, CA; RCS Reseaux, Pantin, FRANCE; RIAS Corporation, Fremont, CA; Rosun Technologies, Fremont, CA; Sagem Group, Paris, FRANCE; Sapphire Communications, San Jose, CA; sentitO Networks, Rockville, MD; Sharegate, Reno, NY; Sheer Networks, Sunnyvale, CA; Silicon Integrated Systems, Hsin-Chu, TAIWAN; Sonus Networks, Long Beach, CA; Sony Electronics, Inc., San Jose, CA; State Farm Insurance, Bloomington, IL; Superior Telecommunications, Atlanta, GA; Surf Communications Solutions, D.N., Misgav, ISRAEL; Talema-Nuvotem, Donegal, IRELAND; Tamura Corporation of America, Temecula, CA; TDK Semiconductor, Tustin, CA; Tecom Co., LTD., Hsinchu, TAIWAN; TeleDream, San Jose, CA; Telefonica CTC Chile, Santiago, CHILE; Telenor, Oslo, NORWAY; Telmax Communications, Fremont, CA; Tenovis GmbH & Co. KG, Frankfurt, GERMANY; TERAYON, Fremont, CA; Tioga Technologies, Tel Aviv, ISRAEL; Toko America, Mt. Prospect, IL; TollBridge Technologies, Santa Clara, CA; TranSwitch Corporation, Shelton, CT; TXU Communications, Irving, TX; UAT, Taipei, TAIWAN; VDSL Systems Oy, Espoo, FINLAND; ViaGate Technologies, Bridgewater, NJ; Vina Technologies, Newark, CA; Vpacket Communications, Milpitas, CA; Westwave Communications, Santa Rosa, CA; and Zoom Telphonics, Boston, MA, have been dropped as parties to this venture.

The following companies have merged: UUNet was bought by WorldCom, and their memberships have been merged under WorldCom, Cambridge, UNITED KINGDOM; Xircom was bought by Intel, and their memberships have been merged under Intel, Wheaton, IL; Cayman Systems was bought by Netopia, and their memberships have been merged under Netopia, Billerica, MA; and 8 × 8 was bought by Netergy Networks, Marlow, Bucks, UNITED KINGDOM.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, DSL filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on February 5, 2002. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2002 (67 FR 14729).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–18230 Filed 7–18–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—JABO Metal Fabrication, Inc.

Notice is hereby given that, on February 21, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), JABO Metal Fabrication, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Handi-House Manufacturing Co., Swainsboro, GA; Lark Builders, Inc., Vidalia, GA; Donald E. Flanders, Swainsboro, GA; and Robert L. Moore, Jr., Vidalia, GA. The nature and objectives of the venture are the manufacture and production of wholesale sheet metal and sale and distribution of sheet metal products to industrial and commercial customers.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–18229 Filed 7–18–02; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2213–02]

Immigration and Naturalization Service Airport and Seaport Inspections User Fee Advisory Committee Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee meeting: Immigration and Naturalization Service Airport and Seaport Inspections User Fee Federal Advisory Committee.

Date and time: Thursday, August 8, 2002, at 1 p.m.

Place: Immigration and Naturalization Service Headquarters, 425 I Street NW., Washington, DC 20536, Shaughnessy Conference Room, Sixth Floor.

Status: Open. Twenty-fourth meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of

the Immigration and Naturalization Service (INS) pursuant to section 286(k) of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act, 5 U.S.C. app. 2. The responsibility of this standing Advisory Committee is to advise the INS Commissioner on issues related to the performance of Airport and Seaport Immigration Inspection Services. This advice should include, but need not be limited to, the time period during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to section 286(d) of the INA, as amended, 8 U.S.C. 1356(d). The Advisory Committee focuses its attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.

Agenda:

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

Public participation: The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the contact person at least 5 days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the contact person for consideration by this Advisory Committee. Only written statements received by the contact person at least 5 days prior to the meeting will be considered for discussion at the meeting.

Contact person: Charles D. Montgomery, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 4064, 425 I Street NW., Washington, DC 20536; telephone: (202) 616–7498; fax: (202) 514–8345; e-mail: *charles.d.montgomery@usdoj.gov*

Dated: July 15, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–18234 Filed 7–18–02; 8:45 am]

BILLING CODE 4410–10–U

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
- CT020001 (Mar. 1, 2002)
- CT020002 (Mar. 1, 2002)
- CT020003 (Mar. 1, 2002)
- CT020004 (Mar. 1, 2002)
- CT020005 (Mar. 1, 2002)

Vermont
- VT020001 (Mar. 1, 2002)
- VT020011 (Mar. 1, 2002)
- VT020013 (Mar. 1, 2002)
- VT020041 (Mar. 1, 2002)
- VT020043 (Mar. 1, 2002)

Volume II

None.

Volume III

None.

Volume IV

Illinois
- IL020001 (Mar. 1, 2002)
- IL020002 (Mar. 1, 2002)
- IL020006 (Mar. 1, 2002)
- IL020008 (Mar. 1, 2002)
- IL020009 (Mar. 1, 2002)

IL020010 (Mar. 1, 2002)
IL020020 (Mar. 1, 2002)
IL020065 (Mar. 1, 2002)
Minnesota
MN020007 (Mar. 1, 2002)
Wisconsin
WI020004 (Mar. 1, 2002)
WI020009 (Mar. 1, 2002)
WI020017 (Mar. 1, 2002)
WI020046 (Mar. 1, 2002)
WI020047 (Mar. 1, 2002)
WI020048 (Mar. 1, 2002)

Volume V

None

Volume VI

Alaska
AK020001 (Mar. 1, 2002)
AK020002 (Mar. 1, 2002)
AK020006 (Mar. 1, 2002)
Colorado
CO020001 (Mar. 1, 2002)
CO020002 (Mar. 1, 2002)
CO020003 (Mar. 1, 2002)
CO020004 (Mar. 1, 2002)
CO020008 (Mar. 1, 2002)
CO020009 (Mar. 1, 2002)
CO020010 (Mar. 1, 2002)
CO020011 (Mar. 1, 2002)
CO020012 (Mar. 1, 2002)
Oregon
OR020007 (Mar. 1, 2002)
Utah
UT020004 (Mar. 1, 2002)
Washington
WA020001 (Mar. 1, 2002)
WA020002 (Mar. 1, 2002)
WA020003 (Mar. 1, 2002)
WA020004 (Mar. 1, 2002)
WA020004 (Mar. 1, 2002)
WA020005 (Mar. 1, 2002)
WA020007 (Mar. 1, 2002)
WA020008 (Mar. 1, 2002)
WA020011 (Mar. 1, 2002)

Volume VII

California
CA020001 (Mar. 1, 2002)
CA020002 (Mar. 1, 2002)
CA020004 (Mar. 1, 2002)
CA020009 (Mar. 1, 2002)
CA020019 (Mar. 1, 2002)
CA020023 (Mar. 1, 2002)
CA020025 (Mar. 1, 2002)
CA020028 (Mar. 1, 2002)
CA020029 (Mar. 1, 2002)
CA020030 (Mar. 1, 2002)
CA020031 (Mar. 1, 2002)
CA020032 (Mar. 1, 2002)
CA020033 (Mar. 1, 2002)
CA020035 (Mar. 1, 2002)
CA020036 (Mar. 1, 2002)
CA020037 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Document, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 11th day of July 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–17953 Filed 7–18–02; 8:45 am]

BILLING CODE 4510–27–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2002–7 DD 99–01]

Ascertainment of Controversy for the Distribution of the 1999, 2000, and 2001 Digital Audio Recording Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Correction.

SUMMARY: This document corrects an error in the notice requesting that interested parties file Notices of Intention to participate in the proceeding to distribute the 1999, 2000 and 2001 Musical Works Funds.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

Correction

In document 02–17897 beginning on page 46698 in the issue of July 16, 2002, make the following correction, in the **SUPPLEMENTARY INFORMATION** section:

On page 46698, in the third column, the first sentence in the last paragraph which reads, ''Each claimant who intends to participate in the distribution of the 1995, 1996, 1997, and 1998 Musical Works Funds must also file a Notice of Intention to participate.'' is corrected to read as follows: ''Each claimant who intends to participate in the distribution of the 1999, 2000 and 2001 Musical Works Funds must also file a Notice of Intention to participate.''

Dated: July 17, 2002.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 02–18277 Filed 7–18–02; 8:45 am]

BILLING CODE 1410–31–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection 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 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:* 10 CFR part 30—Rules of General Applicability to Domestic Licensing of Byproduct Material.

2. *Current OMB approval number:* 3150–0017.

3. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 10 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

4. *Who is required or asked to report:* All persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

5. *The number of annual respondents:* 21,583 (4,678 NRC licensee and 16,905 Agreement State licensees).

6. *The number of hours needed annually to complete the requirement or request:* 199,389 (NRC licensees 44,613 hours (19,955 reporting + 24,658 recordkeeping) and Agreement State licensees 154,776 hours (67,439 reporting + 87,337 recordkeeping)).

7. *Abstract:* 10 CFR part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

Submit, by September 17, 2002, 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 located at One White Flint North, 11555 Rockville Pike, Rockville, MD. OMB clearance requests are available at the NRC worldwide web site *(http://www.nrc.gov/public-involve/doc-comment/omb/index.html).* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 15th day of July 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–18241 Filed 7–18–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Guidelines for Ensuring and Maximizing the Quality, Objectives, Utility, and Integrity of Information Disseminated by the U.S. Nuclear Waste Technical Review Board

AGENCY: U.S. Nuclear Waste Technical Review Board.

ACTION: Draft notice for comment.

SUMMARY: The Office of Management and Budget (OMB) issued government wide guidelines (OMB Guidelines) as required by Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) to ensure and maximize the quality of information disseminated by Federal agencies. The OMB Guidelines were published on September 28, 2001, (66 FR 49718) and on January 3, 2002, (67 FR 369) and reprinted in their entirety on February 22, 2002, (67 FR 8452): Guidelines for Ensuring and Maximizing the Quality, Objectively, Utility, and Integrity of Information Disseminated by Federal Agencies. Each Federal agency is required to issue its own set of guidelines to comply with Section 515 requirements.

The U.S. Nuclear Waste Technical Review Board (Board) is making its draft information guidelines available for public comment both in the **Federal Register** and on its Web site at *www.nwtrb.gov.* The Board welcomes public comment on the guidelines. Please send comments by e-mail to *info@nwtrb.gov.* or in writing to Joyce M. Dory, Director of Administration; U.S. Nuclear Waste Technical Review Board; 2300 Clarendon Blvd., Suite 1300; Arlington, VA 22201.

Comments may be submitted on the draft NWTRB guidelines or on the proposed complaint and review process for addressing public requests for correcting such information. When commenting, please bear in mind that the purpose of the complaint and review process is to deal with information quality, not to resolve underlying substantive policy or legal issues or factual disputes.

Comments received will be reviewed and may be included in the Board's request to OMB for approval of final NWTRB guidelines. To be considered for inclusion in the final guidelines, comments must be received by July 26, 2002.

Nothing in the guidelines set forth in this notice is intended to confer any legal right on any individual. The Board's predissemination review under these guidelines applies to information first disseminated by the Board on or after October 1, 2002.

Draft Guidelines for Disseminating Information

Board Mandate

The U.S. Nuclear Waste Technical Review Board was established by Public Law 100–203, Part E, to ''evaluate the technical and scientific validity of activities undertaken by the Secretary [of Energy] after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, including: (1) [Yucca Mountain] site characterization activities; and (2) activities relating to the packaging or transporting of high-level radioactive waste or spent nuclear fuel.''

To carry out its mandate, the Board strives for a high standard of quality in reviewing the U.S. Department of Energy's (DOE) technical and scientific activities. The Board holds open meetings, routinely schedules time for public comment at its meetings, and actively solicits the opinions of experts in fields allied with topics under review.

The Board also makes every effort to ensure the quality, objectivity, utility, and integrity of information that it disseminates. In developing these guidelines, the Board has followed the requirements set out by the OMB.

Information Disseminated by the Board

The Board was charged by Congress with providing technical and scientific advice to Congress and the Secretary of Energy based on the expert opinion of Board members. In accordance with its congressional mandate, the Board performs an evaluation of the technical and scientific validity of factual information provided by the DOE. The Board does not originate technical and scientific research or data. Consequently, information disseminated by the Board is almost without exception based on Board-member opinion. Like all expert judgments, Board opinions have a subjective element. Thus, they are not easily subjected to the tests of objectivity, reproducibility, and transparency described in the OMB guidelines.

The Board has developed the following proposed guidelines for the

information the Board disseminates. The guidelines have three elements: First, to the extent that Board opinions derive directly from specific technical analyses, those analyses are revealed. Second, the Board makes clear the logic and rationale for its expert opinions. Third, the Board makes every effort to ensure that the information on which it bases its opinions is credible.

Technical analyses. The Board includes a discussion of technical analyses that form the basis of its expert opinions in its twice-yearly reports to Congress and the Secretary of Energy. In addition, such technical analyses are referenced in Board correspondence with the DOE and in correspondence with and testimony before Congress.

Logic and rationale. To make the logic and rationale that support its opinions clear, the Board makes every effort to ensure that its findings and recommendations and the technical analysis on which they are based are understandable, relevant, and widely accessible.

Credible information. To help ensure that its opinions are based on credible information, the Board stays informed on progress in the program by holding meetings several times a year, by being updated on current scientific and technical research, by conducting field observations, and by gathering information from parties to the process and experts in related fields. However, the quality of information derived from external sources cannot be guaranteed by the Board.

From time to time, the Board retains technical experts to provide their opinions on specific technical and scientific issues related to the Board's review of the DOE program. Expert opinion generated or disseminated by these expert consultants is not covered under the guidelines. When the views of expert consultants are disseminated, the Board includes an appropriate disclaimer in the document, for example: ''The views in this document are those of the consultant and are not necessarily those of the Board.''

Dissemination of Information

The Board strives for a high degree of transparency in its evaluation of the DOE program. Consequently, the Board ensures that all Board documents are widely disseminated and available to other organizations, to members of Congress, and to members of the public. The Board mails its twice-yearly reports and its meeting notice directly to its extensive mailing list. The Board makes all its reports, correspondence, congressional testimony, meeting transcripts, and other documents available on its Web site and on request. Most of these documents can be downloaded and are accessible to those who use assistive technology for reading online material.

Quality Management Principles

In reviewing information for dissemination, the Board complies with statutory requirements for protecting certain information. The statutory requirements include the Privacy Act of 1974, the Freedom of Information Act, and the computer security provisions of the Paperwork Reduction Act. The Board strives to ensure that the information in Board documents is unbiased, relevant, accurate, and clear by using the following procedures.

The Board reviews documents for adherence to quality standards as part of its internal review process. Board members and Board staff perform multiple reviews of Board reports, Board correspondence, Board congressional testimony, and other documents. All Board documents are reviewed for consistency and clarity. Text is edited to ensure that thoughts and arguments flow logically and are clear, concise, easy to read, and grammatically correct. Tables and charts are edited to ensure that they clearly and accurately illustrate and support points made in the text. Sound statistical and analytical techniques are used in developing Board documents.

Complaint and Review Procedures

Corrections of Information Covered by These Guidelines

Board guidelines include the following procedures for members of the public to seek and obtain appropriate correction of information maintained and disseminated by the NWTRB after October 1, 2002. As required by OMB Guidelines, the NWTRB will report annually to the director of the OMB on the number and disposition of such requests received.

Use a copy of the form provided on the Board's Web site or available from the Board's office. Provide the information requested on the form and submit it to *info@nwtrb.gov* or to U.S. Nuclear Waste Technical Review Board; Section 515 Compliance; 2300 Clarendon Blvd., Suite 1300; Arlington, VA 22201.

The NWTRB may choose not to respond to requests based on claims deemed frivolous or unlikely to have substantial future effect. A decision on whether and how to correct the information will be made within 90 days of receipt, and the requester will be notified of the decision by mail, telephone, e-mail, or fax.

If the claim is denied, the requester may ask within 30 days of the date of the decision for reconsideration of the Board's decision. Such requests must be made by e-mail (*info@nwtrb.gov*) or in writing (U.S. Nuclear Waste Technical Review Board; Director of Administration; 2300 Clarendon Blvd., Suite 1300; Arlington, VA 22201). The NWTRB will then reconsider its decision. Reconsiderations will be made by the Director of Administration or delegate. The claimant will be notified of the final decision within six weeks.

Definitions

Quality: An encompassing term comprising utility, objectivity, and integrity, as defined below.

Utility: The usefulness of the information to its intended users.

Objectivity: A focus on ensuring that information is accurate, reliable, and unbiased, and that information products are presented in an accurate, clear, complete, and unbiased manner.

Integrity: The security of information from unauthorized access or revision to ensure that the information is not compromised through corruption or falsification.

Information: Any communication or representation of knowledge, such as facts or data, in any form. This does not include individual Board member or staff opinions, where the agency makes it clear that what is being offered is someone's opinion rather than fact or the Board's view.

Dissemination: Agency-instituted or agency-sponsored distribution of information to the public. Dissemination under these guidelines does not include distributions limited to government employees or agency contractors or grantees; interagency or intraagency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act, or other similar law.

Influential: The Board can reasonably determine that dissemination of the information will have or does have a clear and substantial effect on important public policies.

Reproducibility: The information is capable of being substantially reproduced, subject to an acceptable degree of imprecision.

Information not covered by the OMB or Board guidelines includes the following:

- Archival records
- Transcripts of meetings
- Correspondence with an individual

- Press releases
- Reports containing a disclaimer.

Dated: July 12, 2001.

Karyn Severson,

Director, External Affairs, Nuclear Waste Technical Review Board.

[FR Doc. 02–18188 Filed 7–18–02; 8:45 am]

BILLING CODE 6820–AM–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Revision of SF–15

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for revision of an expiring information collection form, Standard Form 15 (SF–15). SF 15, *Application for 10-Point Veteran Preference*, is used by OPM examining offices and agency appointing officials to adjudicate individuals' claims for veterans' preference in accordance with the Veterans' Preference Act of 1944.

According to the General Services Administration, 45,000 forms were used last year. Each form requires approximately 10 minutes to complete. The annual estimated burden is 7,500 hours.

Comments are particularly invited on: whether this information is necessary for OPM to properly perform its functions; whether the information will have practical utility; whether OPM's estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways in which OPM can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey at *mbtoomey@opm.gov* or fax to (202) 418–3251. Please be sure to include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver written comments to: Ellen Tunstall, Assistant Director for Employment Policy, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6500, Washington, DC 20415.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–18117 Filed 7–18–02; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, July 25, 2002
Thursday, August 8, 2002
Thursday, September 12, 2002
Thursday, October 10, 2002

The meeting will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: June 6, 2002.

Mary M. Rose,

Chairperson, Federal Prevailing Rate Advisory Committee.

[FR Doc. 02–18118 Filed 7–18–02; 8:45 am]

BILLING CODE 6325–49–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposals(s)

(1) *Collection title:* Statement of Authority.

(2) *Form(s) submitted:* SI–10.

(3) *OMB Number:* 3220–0034.

(4) *Expiration date of current OMB clearance:* 11/30/2002.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, Business or other for-profit.

(7) *Estimated annual number of respondents:* 400.

(8) *Total annual responses:* 400.

(9) *Total annual reporting hours:* 40.

(10) *Collection description:* Under 20 CFR 355.2, the Railroad Retirement Board (RRB) accepts claims for sickness benefits by other than the sick or injured employees, provided the RRB has the information needed to satisfy itself that the delegation should be made.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement

Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–18231 Filed 7–18–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25660; File No. 812–12694]

Pruco Life Insurance Company, et al.; Notice of Application

July 15, 2002.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an amended order under Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'') granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder.

Summary of Application: Applicants seek an amendment of an Existing Order (described below) to permit the recapture of Credit amounts that differ from the Credit amounts contemplated by the Existing Order under the circumstances specified herein.

Applicants: Pruco Life Insurance Company (''Pruco Life''); Pruco Life Flexible Premium Variable Annuity Account (''Pruco Life Account''); Pruco Life Insurance Company of New Jersey (''Pruco Life of New Jersey,'' and collectively with Pruco Life, the ''Insurance Companies''); Pruco Life of New Jersey Flexible Premium Variable Annuity Account (''Pruco Life of New Jersey Account,'' and collectively with Pruco Life Account, the ''Accounts''); and Prudential Investment Management Services LLC (''PIMS,'' and collectively with the Insurance Companies and the Accounts, ''Applicants'').

Filing Date: The application was filed on November 19, 2001, and amended on July 3, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 9, 2002, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549–0609. Applicants, c/o The Prudential Insurance Company of America, 213 Washington Street, Newark, NJ 07102–2992, Attn: C. Christopher Sprague, Esq.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or William J. Kotapish, Assistant Director, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 [tel. (202) 942–8090].

Applicants' Representations

1. On September 29, 2000, the Commission issued the Existing Order exempting certain transactions of Applicants from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to permit, under specified circumstances the recapture of certain credits applied to purchase payments made under the Contracts and Future Contracts described in the Existing Order.[1]

2. Pursuant to the Existing Order, the Insurance Companies issued Contracts (the ''Original Contracts'') that uniformly applied a 4% Credit to purchase payments made, regardless of the purchase payment amount or the contract owner's age. Under this original version of the Contracts, each Credit is typically subject to its own vesting schedule, under which 10% of the Credit vests on each of the first six Contract Anniversaries following the purchase payment, and the remaining portion of the Credit vests on the seventh Contract Anniversary. Under some versions of the Original Contracts, the Credit may vest sooner. If a withdrawal is made of all or part of a purchase payment, the non-vested portion of the Credit attributable to that purchase payment is recaptured. In addition, the non-vested portion of the Credit is recaptured if: (a) The Contract is canceled under the free look provision, (b) death occurs within one year of a purchase payment, or (c) annuitization occurs during the vesting period applicable to the Credit.

3. The Insurance Companies now desire to recapture Credit amounts that differ depending upon the purchase payment amount and the contract owner's age when the purchase payment is made. Under this new version of the Contracts (the ''New Contracts''), a 4% Credit will be applied to purchase payments less than $250,000 and a 5% Credit will be applied to purchase payments of $250,000 or more if the contract owner is age 80 or younger (for jointly-owned contracts, if the older owner is 80 or younger) when the purchase payment is made. If the contract owner is age 81 or older (for jointly-owned contracts, if the older owner is 81 or older) when the purchase payment is made, a 3% Credit will be applied regardless of the amount of the purchase payment. Under the New Contracts, the Credits will generally vest upon the expiration of the free look period. However, as under the Original Contracts, if a Credit is applied to a purchase payment within one year of death, any Credit attributable to that purchase payment will be recaptured in calculating the death benefit payable under the New Contracts. That is, in calculating the death benefit, the contract value will be adjusted to recapture any credits paid within one year of death.

4. Under the New Contracts, the Insurance Companies will recapture Credits applied to purchase payments under the same circumstances permitted by the Existing Order, except that there will be no recapture of Credits upon a withdrawal or surrender after the free look period has expired, or upon annuitization.

5. The New Contracts are substantially similar in all material respects to the Original Contracts covered by the Existing Order except that under the New Contracts: (a) The Credits are applied as described above, and vest upon the expiration of the free look period (except for Credits applied within one year prior to death), (b) the withdrawal charge as a percentage of purchase payments ranges from 8% prior to the first Contract Anniversary to 0% after 7 Contract Anniversaries, and (c) the asset-based insurance and administrative expense charges are at annual rates of 1.50% for the base death benefit, 1.70% for the guaranteed minimum death benefit with either Step-Up or the Roll-Up, and 1.80% for the guaranteed minimum death benefit with the greater of the Step-Up and the

[1] Investment Company Act Release Nos. 24635 (September 7, 2000) (notice) and 24670 (September 29, 2000) (order).

Roll-Up, assessed pro-rata against the net assets of each sub-account.

6. Applicants seek an amendment to the Existing Order to permit the recapture of the Credit amounts that will be applied to purchase payments made under the New Contracts. The New Contracts include those that exist presently, as well as contracts that may be issued in the future by the Insurance Companies through the Accounts and any other separate account established in the future by the Insurance Companies (''Future Accounts'') that are substantially similar in all material respects to the existing Contracts (''Future New Contracts''). Such Contracts will be sold by PIMS, the principal underwriter of the New Contracts, through broker-dealers that are affiliated with the Insurance Companies or NASD-registered broker-dealers that are not affiliated with the Insurance Companies. Each unaffiliated broker-dealer will have entered into a dealer agreement with PIMS or an affiliate of PIMS prior to offering the New Contracts. Applicants also request that the amended order extend to any National Association of Securities Dealers, Inc. member broker-dealer controlling, controlled by or under common control with, the Insurance Companies, whether existing or created in the future, that serves as distributor or principal underwriter of the New Contracts offered through the Accounts or any Future Account.

Applicant's Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the 1940 Act and the rules promulgated thereunder 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 1940 Act. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, amend the Existing Order to the extent necessary to permit the recapture of the Credit amounts described above under New Contracts. Applicants believe 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 1940 Act.

2. Applicants submit that the recapture of Credits will not raise concerns under Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the 1940 Act, and Rule 22c–1 thereunder for the same reasons given in support of the Existing Order. Credits under the New Contracts will be recaptured only if the owner exercises his/her free look right or with regard to Credits applied within one year prior to death. The amounts recaptured equal the Credits provided by each Insurance Company from its own general account assets. When the Insurance Companies recapture any Credit, they are merely retrieving their own assets, and the owner has not been deprived of a proportionate share of the applicable Account's assets, because his or her interest in the Credit amount has not vested. With respect to Credit recaptures upon the exercise of the free-look privilege, it would be unfair to allow an owner exercising that privilege to retain a Credit amount under a New Contract that has been returned for a refund after a period of only a few days. If the Insurance Companies could not recapture the Credit, individuals could purchase a New Contract with no intention of retaining it, and simply return it for a quick profit. The owner generally bears the investment risk from the time of purchase until return of the New Contract, and is entitled to retain any investment gain attributable to the Credit.

3. Applicants submit that the provisions for recapture of any Credits under the New Contracts do not, and any such Future New Contract provisions will not, violate Section 2(a)(32), 22(c) and 27(i)(2)(A) of the 1940 Act, and Rule 22c–1 thereunder, and that the relief requested is consistent with the exemptive relief provided under the Existing Order.

4. Applicants submit that their request for an amended order that applies to any Account or any Future Account established by an Insurance Company in connection with the issuance of New Contracts and Future New Contracts that are substantially similar to the New Contracts described herein in all material respects, and underwritten or distributed by PIMS, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the 1940 Act that has not already been addressed in this Application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

5. Applicants undertake that Future New Contracts funded by Accounts or by Future Accounts that seek to rely on the order issued pursuant to this Application will be substantially similar to the New Contracts in all material respects.

Conclusion

Applicants submit that their request for an amended order meets the standards set out in Section 6(c) of the 1940 Act and that an amended order should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18253 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46196; File No. SR–AMEX–2002–19]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to Performance Evaluation Procedures for Specialists Trading Securities Pursuant to Unlisted Trading Privileges

July 12, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 14, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to its proposal on May 6, 2002[3] and Amendment No. 2 to its proposal on May 28, 2002.[4] The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 3, 2002 (''Amendment No. 1'').

[4] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated May 24, 2002 (''Amendment No. 2'').

comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to adopt Amex Rule 29, Market Quality Committee, to codify the Exchanges's performance evaluation procedures for securities admitted to dealings on an unlisted trading privileges (''UTP'') basis. The text of the proposed rule change is below. Proposed new language is in *italics.*[5]

* * * * *

Market Quality Committee

Rule 29. (a) The Market Quality Committee shall consist of seven persons comprised as follows: the Chief Executive Officer of the Exchange (or his or her designee), three members of the Exchange's senior management selected by the Chief Executive Officer, one representative of upstairs member firms, one representative of institutional investors, and one member who spends a substantial portion of his or her time on the Trading Floor. The minimum quorum for the transaction of business by the Market Quality Committee shall be four persons. The Chief Executive Officer shall chair meetings of the Market Quality Committee. The Chief Executive Officer may designate a member of the Market Quality Committee to chair meetings in the Chief Executive Officer's absence. The chairman of the Market Quality Committee shall not vote except to make or break a tie. Persons on the Market Quality Committee may attend meetings by telephone.

(b) The Market Quality Committee shall evaluate the performance of specialists registered in securities admitted to dealings on an unlisted basis (''UTP Specialists'') with respect to, among other things: (1) quality of markets, (2) competition with other market centers, (3) administrative matters, and (4) willingness to promote the Exchange as a marketplace. The Market Quality Committee may consider any relevant information, including but not limited to trading data, order flow statistics, market quality statistics, and such other factors and data pertaining to both the Amex and other market centers as may be relevant in the circumstances. The Market Quality Committee may take one or more of the following actions if it finds that the performance of the UTP Specialist is inadequate relative to one or more of the above factors: (1) send advisory letters, (2) counsel UTP Specialists on how to improve their market quality, (3) require UTP Specialists to adopt a performance improvement plan, (4) require the reallocation of securities, (5) suspend a UTP Specialist's registration as a specialist for a specific period of time, or (6) prohibit a UTP Specialist from receiving allocations in a particular situation or for a specified period of time.

(c) The Market Quality Committee shall review, and approve, disapprove or conditionally approve, mergers and acquisitions of UTP Specialists, transfers of one or more UTP Specialist registrations, UTP Specialist joint accounts, and changes in control or composition of UTP Specialist firms. The Market Quality Committee shall approve a proposed transaction involving a UTP Specialist unless it determines that a countervailing institutional interest indicates that the transaction should be disapproved or conditionally approved. In determining whether there is a countervailing institutional interest, the Market Quality Committee shall consider the maintenance or enhancement of the quality of the Exchange's market, taking into account the criteria that the UTP Allocations Committee may consider in making an initial allocation determination and other considerations as may be relevant in the particular circumstances.

(d) The Market Quality Committee may meet with a UTP Specialist that may have failed to meet minimum performance standards with respect to UTP Securities. In such an event, the UTP Specialist shall be notified in writing of the grounds to be considered by the Market Quality Committee and afforded an opportunity to make a presentation of relevant information. Such UTP Specialist shall be given access to all written material to be reviewed by the Market Quality Committee, and all persons appearing before the Market Quality Committee may be represented by counsel. However, formal rules of evidence shall not apply in meetings of the Market Quality Committee. A failure to meet minimum standards relating to: (1) quality of markets, (2) competition with other market centers, (3) administrative matters, or (4) willingness to promote the Exchange as a marketplace may form the basis for remedial action by the Market Quality Committee against a UTP Specialist. Any UTP Specialist affected by a decision of the Market Quality Committee shall be informed in writing of the decision, which decision shall include the findings, conclusions, and any remedial action to be taken (hereinafter ''written notification'').

(e) If, after receiving the notice of a meeting, a UTP Specialist refuses or otherwise fails without reasonable justification or excuse to meet with the Market Quality Committee, the Market Quality Committee may take such action as it believes appropriate.

(f) A UTP Specialist aggrieved by a decision of the Market Quality Committee may appeal such decision to the Amex Adjudicatory Council. An application for review must be submitted to the Secretary of the Exchange within five business days of receipt of the written notification. The decision of the Market Quality Committee is stayed upon the filing of a timely application for review. Any written statement and documents in support of an appeal to the Adjudicatory Council must be submitted to the Secretary of the Exchange within 25 calendar days of receipt of the written notification. The Market Quality Committee shall have 20 calendar days from receipt by the Secretary of the Exchange of the statement in support of the appeal to submit a rebuttal statement together with supporting documents. The Adjudicatory Council may (1) limit its review of the appeal to the record created by the Market Quality Committee together with the written statements and supporting documents submitted by the appellant and Committee in connection with the appeal, (2) consider additional information that was not included in the record, or (3) hear the matter ''de novo,'' as the Council determines is appropriate to render a fair decision on the appeal. A verbatim record of the Adjudicatory Council proceeding shall be kept and a written decision of the Amex Adjudicatory Council shall be rendered as soon as reasonably possible after the hearing. The decision of the Amex Adjudicatory Council shall constitute final action by the Exchange.

* * ;* Commentary

.01 Willingness to Promote the Exchange as a Market Place. Willingness to promote the Exchange as a market place includes providing financial and

[5] The Exchange requested that the Commission correct a typographical error in Commentary .04 of the proposed rule language. Telephone discussion between Bill Floyd-Jones, Assistant General Counsel, Amex, and Marc F. McKayle, Special Counsel, and Christopher B. Stone, Attorney Advisor, Division, Commission (June 14, 2002)(''Telephone Conference''). The Exchange also requested that the Commission correct an errant reference to ''Market Performance Committee'' in paragraph (c) of the proposed rule language below. Telephone discussion between Bill Floyd-Jones, Assistant General Counsel, Amex, and Christopher B. Stone, Attorney Advisor, Division, Commission (June 19, 2002). The Exchange has committed to submitting a conforming amendment reflecting these changes during the comment period for the rule filing.

other support for the Exchange's program to trade securities on an unlisted basis, contributing to the Exchange's marketing effort, consistently applying for allocations, assisting in meeting and educating market participants (and taking time for travel related thereto), maintaining communications with member firms in order to be responsive to suggestions and complaints, responding to competition by offering competitive markets and competitively priced services, and other like activities.

.02 Performance Improvement Plans. The Market Quality Committee may require a UTP Specialist to develop a performance improvement plan when it determines that the UTP Specialist has fallen below acceptable measures of performance for UTP Securities relative to its peers or other market centers with respect to (1) quality of markets, (2) competition with other market centers, (3) administrative matters, or (4) willingness to promote the Exchange as a marketplace. If the Market Quality Committee determines that a performance improvement plan should be developed, it shall advise the UTP Specialist in writing of its findings, the specific areas where the Market Quality Committee believes that improvement is required, and measurable goals that the Market Quality Committee believes the UTP Specialist should achieve. The UTP Specialist will prepare within the time required by the Market Quality Committee a written performance improvement plan detailing the specific, tangible steps that it will take to improve its performance and meet any goals established by the Market Quality Committee and the time for the completion of the plan. The Market Quality Committee may accept the plan as submitted or may make such modifications as it deems appropriate which modifications shall be binding upon the UTP Specialist. The Market Quality Committee, or persons appointed by it for the purpose, shall monitor the implementation of the performance improvement plan by the UTP Specialist. If the UTP Specialist has not achieved the goals set by the Market Quality Committee within the required time, the Market Quality Committee may grant for good cause shown one extension not to exceed 90 days to achieve the goals. The Market Quality Committee may not grant more than one extension. The Market Quality Committee shall take stronger remedial action against the UTP Specialist if, at the end of the time of the performance improvement plan or any extension, the UTP Specialist has not achieved the specified goals.

.03 Performance Ratings for UTP Specialists. As soon as possible following the completion of a calendar quarter, the Exchange shall rate each UTP Specialist from "1" through "5" (with "1" representing the best possible rating) based upon their market quality relative to criteria such as the following:

- *Net price improvement*
- *Effective spread*
- *Quote size*
- *Execution speed*
- *Percentage of marketable customer orders sent away to another market for execution*
- *Floor Broker Questionnaire rankings*

The Exchange will allocate weightings to these criteria and will notify UTP Specialists of these relative weightings prior to their implementation. The Exchange may change the criteria used to evaluate UTP Specialists and the weighting assigned to each criterion from time to time as warranted by market conditions in order to enhance the Exchange's competitiveness relative to other markets and/or to improve market quality. The Exchange will notify UTP Specialists of any change in the criteria or weightings of criteria in advance of the calendar quarter in which the change will be implemented. The Exchange also will notify UTP Specialists of their ratings.

A UTP Specialist unit that receives a "5" rating in any two of four consecutive quarters shall be referred to the Market Quality Committee for consideration of possible reallocation of one or more securities admitted to dealings on an unlisted basis or other appropriate remedial action. A UTP Specialist that receives ratings of "4" or "5" in any three of six consecutive quarters shall be referred to the Market Quality Committee for consideration of possible reallocation of one or more securities admitted to dealings on an unlisted basis or other appropriate remedial action. The Market Quality Committee is not precluded from reallocating one or more securities or taking other remedial action based on a single instance of deficient performance or a single quarter of poor ratings. Conversely, the Market Quality Committee is not required to take such actions. The nature of the appropriate remedial actions is necessarily subject to professional judgment, dependent on such matters as the security being traded, competition on other markets centers, personnel and systems changes, and other factors. Accordingly, such determinations are left to the expertise, discretion and judgment of the Market Quality Committee.

The Market Quality Committee shall consider UTP Specialist performance ratings in determining whether to approve, disapprove or conditionally approve, mergers and acquisitions of UTP Specialists, transfers of one or more UTP Specialist registrations, UTP Specialist joint accounts, and changes in control or composition of UTP Specialist firms.

.04 Market Share Evaluation for UTP Specialists. The Exchange shall regularly evaluate the market share of UTP Specialists with respect to share volume and shall inform UTP specialists of their market share. The Exchange shall establish minimum market share criteria from time to time based upon market conditions, and may establish different criteria for securities with different trading characteristics (e.g., average daily volumes, number of competing market makers). The Exchange shall notify UTP specialists of any change in minimum market share criteria in advance of the period in which the change will be implemented. UTP Specialists that fall below the minimum market share criteria established by the Exchange in one or more UTP securities shall be referred to the Market Quality Committee for consideration of reallocation or other appropriate remedial action.

The Market Quality Committee is not precluded from reallocating one or more securities or taking other remedial action based on a single instance of deficient performance or a single quarter of poor ratings. Conversely, the Market Quality Committee is not required to take such actions. The nature of the appropriate remedial actions is necessarily a matter of professional judgment, dependent on such matters as the security being traded, competition on other markets centers, personnel and systems changes, and other factors. Accordingly, such determinations are left to the expertise, discretion and judgment of the Market Quality Committee.

The Market Quality Committee shall consider UTP Specialist market share performance in determining whether to approve, disapprove or conditionally approve, mergers and acquisitions of UTP Specialists, transfers of one or more UTP Specialist registrations, UTP Specialist joint accounts, and changes in control or composition of UTP Specialist firms.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange anticipates that Amex UTP Specialists will operate in an extraordinarily competitive environment. The Exchange, accordingly, has developed a new program to evaluate and remediate UTP Specialist performance. The ultimate goal of the performance evaluation process would be to ensure that the Exchange is as successful as possible in garnering market share in UTP securities.[6]

Under the proposal, a new committee, the Market Quality Committee, would administer the Exchange's program to evaluate and enhance UTP Specialist performance. The Committee is proposed to consist of seven persons: the Chief Executive Officer of the Exchange, three members of the Exchange's senior management selected by the Chief Executive Officer, one representative of upstairs member firms, one representative of institutional investors, and one member who spends a substantial portion of his or her time on the Trading Floor. The Committee would regularly evaluate UTP Specialists to determine whether they have fulfilled standards relating to: (1) Quality of markets, (2) competition with other market centers, (3) administrative matters, and (4) willingness to promote the Exchange as a marketplace. The Committee also would review transfers of specialist registrations in UTP securities to ensure that the Exchange's institutional interests are protected.

As proposed, the Market Quality Committee could take one or more of the following actions if it finds that a UTP Specialist has not met relevant standards: (1) Send an advisory letter, (2) counsel UTP Specialists on how to improve their performance, (3) require UTP Specialists to adopt performance improvement plans, (4) require the reallocation of securities, (5) suspend a specialist's registration as a UTP Specialist for a specific period of time, or (6) prohibit a UTP Specialist from receiving allocations in a particular situation or for a specified period of time. In the event that a UTP Specialist refuses or otherwise fails without reasonable justification or excuse to meet with the Market Quality Committee, the Market Quality Committee could take such action as it believes appropriate based on the information available to it without waiting for an appearance by the UTP Specialist.[7] Persons that are aggrieved by decisions of the Market Quality Committee may appeal them to the Amex Adjudicatory Council.

Under the proposal, the Committee could take remedial action with respect to UTP Specialists as a result of one or more transactions that involve poor performance that are identified through Amex surveillance or complaints. The Exchange also proposes to evaluate routinely UTP Specialist performance relative to both market quality and market share criteria.

Each quarter, the Exchange proposes to rate all UTP Specialists from ''1'' to ''5'' on a curve based upon their scores with respect to the market quality criteria.[8] A rating of ''1'' would represent the best possible score. A UTP Specialist unit that receives a ''5'' rating in any two of four consecutive quarters, or ratings of ''4'' or ''5'' in any three of six consecutive quarters, would be referred to the Market Quality Committee for consideration of reallocation or other appropriate remedial action.

The Exchange proposes to change the market quality criteria used to evaluate specialists and the weightings of these criteria from time to time as warranted by market conditions. The Exchange proposes to notify UTP Specialists of any changes to the criteria and weightings prior to implementation.[9] The Exchange proposes the following market quality criteria at the outset of the program to evaluate UTP Specialist performance:

- Net price improvement
- Effective spread
- Quote size
- Execution speed
- Percentage of marketable customer orders sent away to another market for execution
- Floor Broker Questionnaire rankings

With respect to market share reviews, the Exchange proposes to establish minimum market share criteria for UTP securities based upon market conditions, and may establish different criteria for securities with different trading characteristics (*e.g.*, average daily volumes or numbers of competing market makers). Specialists that fall below the minimum market share criteria established by the Exchange in one or more UTP securities would be referred to the Market Quality Committee for consideration of reallocation or other appropriate remedial action.

The Exchange proposes to change the minimum market share criteria used to evaluate UTP Specialists from time to time as warranted by market conditions. The Exchange would notify UTP Specialists of any changes to the market share criteria prior to implementation. The Exchange also would notify UTP Specialists of their market share.

As proposed, the market share evaluation program would be separate from the performance ratings system described above. Thus, for example, a

[6] According to Amex, the Commission, in its decision *In the Matter of the Application of Pacific Stock Exchange's Options Floor Post X–17,* Administrative Proceeding File No. 3–7285, Exchange Act Release No. 31666 (December 29, 1992), determined that performance evaluation processes fulfill a combination of business and regulatory interests at exchanges. The Commission stated in the *Post X–17* case: We believe that [a self-regulatory organization's (''SRO's'')] need to evaluate market maker and specialist performance arises from both business and regulatory interests in ensuring adequate market making performance by its market makers and specialists that are distinct from the SRO's enforcement interests in disciplining members who violate SRO or Commission Rules. An exchange has an obligation to ensure that its market makers or specialists are contributing to the maintenance of fair and orderly markets in its securities. In addition, an exchange has an interest in ensuring that the services provided by its members attract buyers and sellers to the exchange. To effectuate both purposes, an SRO needs to be able to evaluate the performance of its market makers or specialists and transfer securities from poor performing units to the better performing units. This type of action is very different from a disciplinary proceeding where a sanction is meted out to remedy a specific rule violation. (Footnotes omitted.)

[7] The Exchange clarified that the reference to ''such action as the Market Quality Committee believes appropriate'' and corresponding language in the proposed rule text (Rule 29(e)) is not meant to expand the remedial power of the Market Quality Committee otherwise provided for in the proposed Amex Rule 29(b). Telephone Conference.

[8] The Exchange explained that UTP specialists would be rated on a curve and, thus, such ratings would reflect the performance of specialists relative to one another rather than theoretical performance levels. Telephone Conference.

[9] The Exchange represented to the Commission that notification of any criteria or weighting changes generally will take place within a month before the implementation of such changes. Moreover, criteria and weightings changes would only be implemented at the beginning of a rating quarter. Telephone Conference.

UTP Specialist with performance ratings that would not trigger remedial action could be referred to the Market Quality Committee for consideration of reallocation or other action based upon sub-standard market share in one or more UTP securities.

As noted above, under the UTP Specialist evaluation procedures, performance reviews can result from: (1) Complaints or surveillance reviews, (2) low scores under the UTP Specialist market quality ratings systems, or (3) low market share in one or more UTP securities. As proposed, a performance review could result in a variety of possible actions, ranging from recommendations for performance improvement, a determination not to permit a firm to seek new allocations, to a reallocation of one or more UTP securities from a UTP Specialist. The Committee would not be precluded from reallocating UTP securities based on a single instance of deficient performance or a single quarter of poor ratings or low market share. Conversely, the Committee would not be required to take such actions. Rather, the purpose of the rules and processes is to identify circumstances that warrant review by the Market Quality Committee. The nature of the appropriate remedial actions is necessarily subject to professional judgment, dependent on such matters as the UTP securities being traded, competition on other market centers, personnel, and systems changes, and other factors.[10] Accordingly, such determinations are left to the expertise, discretion, and judgment of the Market Quality Committee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act,[11] in general, and section 6(b)(5) of the Act,[12] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest by encouraging good performance and competition among markets and specialists.

[10] The phrase ''necessarily a subjective matter'' has been replaced with ''necessarily subject to professional judgment'' in both the purpose section and the proposed rule text in Commentary .03. As noted above, the Exchange has committed to submitting a conforming amendment during the comment period of the rule filing. Telephone Conference.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition; rather, it believes that the proposed rule will enhance and encourage competition both within the Exchange, and, more significantly, between and among the Exchange and other markets by establishing incentives for superior performance and thereby ensuring the maintenance of quality markets at the Exchange. In this respect, the Exchange believes that it is critical to recognize that the most important level of competition occurs not among specialists of the same exchange to obtain a particular listing (although this, too, is important), but rather among specialists of different exchanges trading in the same security and actively competing for the business of the investing public. The Exchange believes that the procedures as set forth in the proposed rule change for reviewing the performance of specialists and taking remedial action, are necessary to ensure quality markets and thereby attract buyers and sellers to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–AMEX–2002–19 and should be submitted by August 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18252 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46198; File No. SR–Amex–2002–08]

Self-Regulatory Organizations; Notice of Withdrawal of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the American Stock Exchange LLC Relating to Specialist Unit Fees

July 12, 2002.

On February 7, 2002, the American Stock Exchange LLC (''Exchange'' or ''Amex'') submitted to the Securities and Exchange Commission (''Commission'') a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to modify its Member Fee Schedule to pass through to Amex specialist units any fee paid by the Exchange to a third party in connection with the listing and trading of a security allocated to such specialist unit. On March 13, 2002, the Amex submitted Amendment No. 1 to the proposed rule change.[3] On March 18, 2002, the Amex submitted Amendment No. 2 to the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 12, 2002.

change.[4] The proposed rule change, as amended by Amendment Nos. 1 and 2, was published in the **Federal Register** on April 17, 2002.[5] The Commission received one comment on the proposed rule change.[6] On May 16, 2002, the Amex filed Amendment No. 3 to the proposed rule change.[7] The proposed rule change, as amended by Amendment No. 3, was published in the **Federal Register** on May 30, 2002.[8] On July 12, 2002, the Exchange withdrew the proposed rule change.[9]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18243 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

[4] *See* letter from Claire McGrath, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 14, 2002.

[5] *See* Exchange Act Release No. 45727 (April 10, 2002), 67 FR 18962.

[6] *See* letter from Brandon Becker, Wilmer, Cutler & Pickering, to Jonathan G. Katz, Secretary, Commission, dated May 2, 2002.

[7] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated May 16, 2002.

[8] *See* Exchange Act Release No. 45972 (May 21, 2002), 67 FR 18962.

[9] *See* Letter from, Geraldine Brindisi, Vice President and Corporate Secretary, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated July 12, 2002.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46183; File No. SR–CBOE–2002–32]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Time and Manner in Which the Appropriate Allocation Committee May Reallocate a Security

July 11, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 8.95 (''Allocation of Securities and Location of Trading Crowds and DPMs'') to extend, from six months to one year, the time in which the appropriate Allocation Committee may reallocate a security if the trading crowd or Designated Primary Market-Maker (''DPM'') to which the security had been allocated fails to adhere to any market performance commitments made by the trading crowd or DPM in connection with receiving the allocation. The text of the proposed rule change is available at the CBOE 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 CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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

CBOE Rule 8.95(c) currently provides that during the first six months following the allocation of a security to a trading crowd or DPM, the appropriate Allocation Committee may remove the allocation and reallocate the security, if the trading crowd or DPM fails to adhere to any market performance commitments made by the trading crowd or DPM in connection with receiving the allocation. CBOE now proposes to amend CBOE Rule 8.95(c) to extend the initial review period from six months to one year under which the appropriate Allocation Committee may exercise this authority.

According to CBOE, the appropriate Allocation Committee typically requests that trading crowds and DPMs make market performance commitments as part of their applications to receive allocations of particular securities. These commitments may relate to pledges to keep bid-ask spreads within a particular width, or pledges to make every effort possible to become the exchange of choice in a particular option class, as measured during the initial months of trading by consistently achieving a certain market share if the class is listed on more than one options exchange. CBOE Rule 8.95(c) permits the appropriate Allocation Committee to remove an allocation if these commitments are not met, thus giving trading crowds and DPMs an incentive to abide by these commitments.

CBOE believes that extending the initial review period from six months to one year is appropriate because it will provide the appropriate Allocation Committee additional time to evaluate whether a particular DPM or trading crowd has adhered to any market performance commitments it made in connection with being allocated the security.

Following this initial review period after an allocation is made, CBOE notes that all the responsibility for monitoring market performance with respect to that security is vested in the appropriate Market Performance Committee or MTS Appointments Committee, which continually evaluate trading crowd and DPM market performance, as applicable, and are authorized pursuant to CBOE Rule 8.60, CBOE Rule 8.90, and other Exchange Rules to take remedial action for failure to satisfy minimum market performance standards.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act[3] in that it is designed to remove impediments to a free and open market and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or

[3] 15 U.S.C. 78f(b)(5).

within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–CBOE–2002–32 and should be submitted by August 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18220 Filed 7–18–02; 8:45 am]

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[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46185; File No. SR–CBOE–2002–31]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Handling of Customer Orders

July 11, 2002

On June 10, 2002, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with 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 establish the Large Order Utility (''LOU''). Through LOU, eligible customer orders larger than CBOE's maximum ''auto-ex'' size for the relevant option would be stopped at the Exchange's disseminated price up to the size of the Exchange's disseminated quote, and subsequently routed to the trading crowd for possible price improvement and allocation in open-outcry.[3] Thus, LOU would allow for price-improvement while guaranteeing an execution at a price equal to or better than the stop price. If price improvement was not attainable in the open-outcry, the order would be allocated at the stop price among the members of the trading crowd under specified procedures.[4]

The proposed rule change was published for comment in the **Federal Register** on June 19, 2002.[5] The Commission received no comments on the proposal. On July10, 2002, the CBOE filed Amendment No. 1 to the proposed rule change, in which it requested that the Commission find good cause to approve the proposed rule change prior to the thirtieth day after its publication in the **Federal Register**.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] To be eligible for LOU, an incoming order would be required to: (i) be a market order or marketable limit order that is not for an account in which a member or any non-member broker-dealer (including foreign broker-dealer) has an interest; (ii) be of a size greater than the eligibility limit of CBOE's Retail Automatic Execution System (''RAES'') for the subject option series; (iii) be in an option class which is designated by the appropriate Floor Procedure Committee as eligible for LOU; and (iv) not be an order routed to CBOE through intermarket linkage. Further, at the time of the order's receipt, (i) the CBOE quote would be required to be priced equal to the National Best Bid or Offer; (ii) the requirements of CBOE Rule 6.8.B (governing automated book priority for larger than RAES-size public customer orders received through the Exchange's Order Routing System) would have to be in effect for the subject option class; and (iii) the CBOE quote could not be a manual quote.

[4] The order would be assigned in a manner consistent with existing open-outcry procedures under CBOE Rules 6.45 and 8.87. To the extent any order is not fully assigned in open-outcry, an ''In-Person Wheel'' would evenly assign contracts to market-makers present in the crowd up to a 5-contract maximum per order. If the In-Person Wheel has been exhausted for a particular LOU order and a balance still remains on the LOU order, the entirety of such balance would be assigned in accordance with the RAES trade allocation methodology in effect for the subject option class.

[5] *See* Securities Exchange Act Release No. 46073 (June 13, 2002), 67 FR 41743.

[6] *See* Letter from Angelo Evangelou, Senior Attorney, Legal Division, CBOE, to Ira Brandriss, Special Counsel, Division of Market Regulation, Commission, dated July 9, 2002 (Amendment No. 1).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[7] and, in particular, the requirements of Section 6 of the Act[8] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[9] because, by automatically securing the Exchange's disseminated prices for customer orders up to the disseminated size of the Exchange, while allowing for potential price improvement for those orders, it should benefit customers and improve the overall efficiency of the market. In addition, the Commission finds that the manner of allocating contracts in the crowd under the proposed rule change is consistent with equitable principles.

The Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that the CBOE has represented that all required systems work for LOU has been completed and successfully tested, and that the CBOE is prepared to begin utilizing the system within a week of approval by the Commission.[10] The Commission believes that accelerated approval of this proposal should permit the CBOE to immediately begin providing customers with the benefits described above, and serve to enhance competition among the markets.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[11], that the proposed rule change (File No. SR–CBOE–2002–31) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18224 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Amendment No. 1, *supra* note 6.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46197; File No. SR–ISE–2002–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by International Securities Exchange, Inc., Relating to Limit Orders for the Account of Options Market Makers From Other Exchanges

July 12, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2002, the International Securities Exchange, Inc. (''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which the ISE has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its rules to provide that limit orders entered for the account of options market makers from other exchanges must be designated as immediate-or-cancel (''IOC'') orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of those statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ISE rules permit Electronic Access Members (''EAMs'') to enter limit orders for the account of an options market maker on another exchange. Limit orders that are IOC orders trade immediately, with any unexecuted size being cancelled. In contrast, any unexecuted size associated with a limit order not designated as IOC is placed on the ISE's limit order book to be displayed in the same manner as customer orders, ISE member proprietary orders, and ISE market maker quotes. Once on the ISE's limit order book, orders for the accounts of such non-ISE options market makers are given equal allocation rights as other proprietary broker-dealer orders and ISE market maker quotes and orders. The purpose of this proposed rule change is to provide that limit orders entered for the account of options market makers from other exchanges must be designated as IOC orders.

As a general matter, the ISE affords market makers on other exchanges greater access to the ISE market than the other exchanges provide for ISE market makers. For example, most other exchanges do not permit ISE market makers to place orders on their limit order books.[3] Moreover, *no* other options exchange allows ISE market makers to be on the ''wheel,'' and thus to participate in transactions effected in their automated execution systems. This is in marked contrast to the ISE, where market makers from other exchanges directly compete for order flow with ISE market makers. The ISE believes that this puts ISE market makers at a competitive disadvantage. According to the ISE, moreover, when ISE market makers trade against customer orders, they are subject to payment-for-order-flow and marketing fees that do not apply to their competitors. The ISE's proposed rule filing is designed to address these concerns.[4]

The basis for this proposed rule change is the requirement under section 6(b)(5) under the Exchange Act[5] that an Exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The ISE has not solicited, and does not intend to solicit, comments on this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the ISE consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to SR–ISE–2002–13 and should be submitted by August 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18221 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See, e.g.,* Chicago Board Options Exchange Rules 6.2A(a)(ii), 6.45 and 8.85.

[4] The ISE believes that this proposal is fully consistent with the provisions of the intermarket linkage, now in development. Specifically, that linkage would permit only market makers to send IOC orders to another exchange. *See* Plan for the Purpose of Creating and Operating an Intermarket Option Linkage, Section 2(16), which defines a ''Linkage Order'' solely as an IOC order.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46189; File No. SR–ISE–2002–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Fee Changes

July 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2002, the International Securities Exchange, Inc. (''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which the ISE has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing five fee changes: (1) Suspending its marketing fee for six months; (2) imposing a $.10 surcharge for non-customer transactions in options on the iShares S&P 100 Index Fund; (3) adopting a fee for members who connect to the ISE through a high-bandwidth T–3 line; (4) discounting the fees for multiple connections to the ISE Order Routing System (''IORS''); and (5) imposing a ''cancellation fee.'' The text of the rule amendment is available at the ISE 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 ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE 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 purpose of the proposed rule change is to adopt the following five ISE fee changes:

- *Marketing Fee:* The ISE currently imposes a $.10 fee to fund marketing efforts. There currently is sufficient money in the marketing fund to finance these efforts for the foreseeable future. Thus, the ISE proposes suspending that fee for six months beginning July 1, 2002.
- *Licensing Fee:* The ISE proposes to adopt a $.10 surcharge on non-customer transactions in options on the iShares S&P 100 Index Fund. The ISE has entered into a license agreement to use various trademarks regarding this index, and this proposed rule change will defray the licensing costs. We also propose to correct the name of the Nasdaq Biotechnology Index exchange-traded fund in the fee schedule.
- *T–3 Connection Fee:* ISE Members currently connect to the ISE through either a T–1 line or lines with smaller capacities. Some members now are requesting to connect through a T–3 line, providing very high capacity. The ISE proposes a connectivity charge of $1,250 a month per T–3 line to recover its costs in providing this level of connectivity.
- *Multiple IORS Discount:* IORS is the ISE order routing system. While most Members have only one IORS connection, some members maintain separate connections for each clearing relationship. We propose to discount multiple IORS connections to reflect the reduced costs on the ISE for supporting such members.
- *Cancellation Fee:* There are a number of Electronic Access Members (''EAMs'') who use a disproportionate amount of communication bandwidth by canceling orders immediately following the entry of the orders. These order/cancellation messages often happen in large numbers, and can cause congestion in IORS. The ISE proposes to impose on each EAM an order cancellation fee of $1 for every cancellation through IORS in excess of the number of orders that the EAM executes in a month. The fee would not apply to any EAM that cancels fewer than 500 orders through IORS in a month. The ISE believes that this will ease congestion in IORS and will fairly allocate costs.[3]

2. Basis

The basis for this proposed rule change is the requirement under Section 6(b)(4) of the Act[4] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The ISE has not solicited, and does not intend to solicit, comments on this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other ISE charge and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(2) thereunder.[6] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The cancellation fee is similar to fees adopted by the Chicago Board Options Exchange, Inc., the American Stock Exchange, Inc., and the Pacific Exchange, Inc. *See* Securities Exchange Act Release No. 44607 (July 27, 2001), 66 FR 40757 (August 3, 2001) (SR–CBOE–2001–40); Securities Exchange Act Release No. 45110 (November 27, 2001) 66 FR 63080 (December 4, 2001) (SR–Amex–2001–90); and Securities Exchange Act Release No. 45262 (January 9, 2002), 67 FR 2266 (January 16, 2002) (SR–PCX–2001–47).

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 19b–4(f)(2).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to SR–ISE–2002–16 and should be submitted by August 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18222 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46191; File No. SR–NYSE–2001–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc. Amending Exchange Rule 97 Which Limits Member Trading Because of Block Positioning

July 12, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 17, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on April 17, 2002.[3] The Exchange filed Amendment No. 2 to the proposed rule change on June 28, 2002.[4] The Commission is publishing this notice, as amended by Amendment Nos. 1 and 2, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 97 (Limitation on Member Trading Because of Block Positioning) so that it applies only to transactions executed at or near the end of the trading day, and to provide exceptions to the rule for member organizations that establish the requisite internal information barriers and for certain hedging transactions.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

* * * * *

Limitation on Members' Trading Because of Block Positioning

Rule 97

(a) When a member organization holds any part of a long position in a stock in [its trading] *a proprietary* account resulting from a block transaction it effected with a customer, such member organization may not effect *within twenty minutes of the close of trading on the Exchange a purchase on a ''plus'' tick in such stock at a price higher than the lowest price at which any block was acquired in a previous transaction on that day* [the following transactions] for any account in which it has a direct or indirect interest [for the remainder of the trading day on which it acquired such position,] *if the person responsible for the entry of such order to purchase such stock has knowledge of such block position.[:]*

A member, allied member, or an employee of a member organization responsible for entering proprietary orders shall be presumed to have knowledge of a particular block position unless the member organization has implemented a reasonable system of internal policies and procedures to prevent the misuse of information about block positions by those responsible for entering such proprietary orders.

[(i) A purchase on a ''plus'' tick if such purchase would result in a new daily high;

(ii) A purchase on a ''plus'' tick within one-half hour of the close;

(iii) A purchase on a ''plus'' tick at a price higher than the lowest price at which any block was acquired in a previous transaction on that day; or

(iv) A purchase on a ''zero plus'' tick of more than 50% of the stock offered at a price higher than the lowest price at which any block was acquired in a previous transaction on that day.]

For purposes of [the restrictions in subparagraphs (iii) and (iv) above] *this rule,* in the case where more than one block was acquired during the day, the lowest price of any such block will be the governing price.

(b) The provisions of paragraph (a) shall not apply to transactions made:

(1) For bona fide arbitrage or to engage in the purchase and sale, or sale and purchase of securities of companies involved in publicly announced merger, acquisition, consolidation, tender, etc.;

(2) To offset a transaction made in error;

(3) To facilitate the conversion of options;

(4) By specialists in the stocks in which they are registered;

(5) To facilitate the sale of a block of stock or a basket of stocks by a customer;

(6) To facilitate an existing customer's order for the purchase of a block of stock, or a specific stock within a basket of stocks, or a stock which is being added to or reweighted in an index, at or after the close of trading on the Exchange, provided that the facilitating transactions are recorded as such and the transactions in the aggregate do not exceed the number of shares required to facilitate the customer's order for such stock; [or]

(7) Due to a stock's addition to an index or an increase in a stock's weight in an index, provided that the transactions in the aggregate do not exceed the number of shares required to rebalance the index portfolio[.] *or;*

(8) To hedge a position that is economically equivalent to a short stock position, provided that (i) the creation of the hedge, whether through one or more transactions, occurs so close in time to the completion of the transaction precipitating such hedge that the hedge is clearly related; (ii) the risk to be offset is the result of a position acquired in the course of facilitating a customer's order, and (iii) the size of the hedge is commensurate with the number of shares required to hedge such position when netted with any long position in the stock.

Supplementary Material: No change.

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard P. Bernard, Executive Vice President and General Counsel, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated April 16, 2002 (''Amendment No. 1''). In Amendment No. 1, the Exchange amended the proposed rule text to clarify which types of hedging transactions it would exclude from the restrictions of NYSE Rule 97.

[4] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated June 27, 2002 (''Amendment No. 2''). In Amendment No. 2, the Exchange amended the example in the Purpose section of the proposal to clarify the types of hedging transactions that would fall under the proposed exemption to NYSE Rule 97.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

NYSE Rule 97 prohibits a member organization that holds any part of a long position in a stock in its trading account resulting from a block transaction it effected with a customer from purchasing, for an account in which it (*i.e.,* the block positioning firm) has a direct or indirect interest, additional shares of such stock on a ''plus'' or ''zero plus'' tick under certain conditions for the remainder of the trading day. NYSE Rule 97 defines a ''block'' as a quantity of stock having a market value of $500,000 or more. Exceptions to the rule exist for transactions involving bona fide arbitrage or trading in companies involved in a publicly announced merger, acquisition, consolidation or tender offer; to offset error transactions; to facilitate the conversion of options; to allow specialty stock transactions by specialists; or to facilitate the sale of a block of stock to a customer.

The Exchange now proposes to amend NYSE Rule 97 in three significant respects. First, the Exchange proposes to amend NYSE Rule 97 to focus on transactions executed at or near the end of the trading day that could advantage a position acquired by a block positioner by being executed at a higher price than the lowest price at which a block was acquired during that day. As amended, NYSE Rule 97 would apply only during the last twenty minutes of the trading day, rather than, as under the current rule, the remainder of the trading day following acquisition of the block position. The Exchange believes that this approach is the same the Exchange applied, and the Commission approved, in other customer facilitation situations when a member organization may be positioning stock for its own account.[5] The Exchange notes that while the proposed amendments to NYSE Rule 97 would limit the strict ''tick'' restriction to the most sensitive part of the trading day, members and member organizations remain subject to the anti-manipulative provisions of the Act at all times during the trading day.

Secondly, the Exchange proposes to provide that if a member organization establishes internal information barriers to shield a person entering proprietary orders in a stock from the knowledge that the firm has a block position in that stock, the restrictions in NYSE Rule 97 shall not apply to proprietary orders entered by such person. The Exchange believes that this is similar to the approach taken with respect to NYSE Rule 92, which provides that the proscriptions against trading ahead of customer orders shall not apply if internal information barriers shield a person entering a proprietary order from knowledge of any particular customer order executable at the same price.

Paragraph (b) of NYSE Rule 97 provides exceptions to the rule for purchases involving bona fide arbitrage or trading in companies involved in a publicly announced merger, acquisition, consolidation or tender offer; to offset error transactions; to facilitate the conversion of options; for transactions by specialists in their specialty stocks; to facilitate the sale of a block of stock or a basket of stocks by a customer; to facilitate an existing customer order for the purchase of a block of stock or a stock in a basket of stocks or a stock being added to or reweighted in an index at or after the close of trading on the Exchange provided certain conditions are met; or to increase a proprietary position in a stock which is being added to, or being increased in the weight of, a publicly disseminated index, provided that the transactions in the aggregate do not exceed the number of shares required to rebalance the portfolios.

The Exchange also proposes an additional exception for purchases which offset all or part of the market risk of a position that is economically equivalent to a short position in the stock, provided that such position was established as the result of facilitating a customer's order and the creation of the hedge, whether through one or more transactions, occurs so close in time to the completion of the transaction precipitating such hedge that the hedge is clearly related. Examples of positions that, according to the Exchange, would be deemed to be economically equivalent to a short position in the stock include a long put option or a short position in a call option, warrant, right or convertible or exchangeable securities. The number of shares purchased to hedge the short position must be commensurate with the number of shares required to hedge such position when it is netted with any long position in the stock.

For example, on July 1, a member organization, in order to facilitate a customer,[6] sold short to that customer a security which is convertible into 100,000 shares of common stock. Thereafter, it facilitates a block transaction for another customer by buying 40,000 shares of the same common stock for the member organization's proprietary account. Within 20 minutes of the close on the same day, it seeks to hedge its remaining short exposure in the convertible security by buying 60,000 shares of the common stock. Since the member organization has acquired a long facilitation position (*i.e.,* the 40,000 share purchase), it must now calculate whether it is long for purposes of NYSE Rule 97, as amended. If it determines that it is not long, but rather short, it would fall within the proposed exception to NYSE Rule 97, as amended, for hedging a short position since the hedge being created offsets the risk of a position acquired in the course of facilitating a customer's order and the hedge is ''clearly related'' to the completion of the transaction precipitating the hedge[7] (the short position).

If, on the other hand, the firm determines it is long for purposes of NYSE Rule 97, the firm would not be able to effect within twenty minutes of the close of trading on the Exchange a purchase on a ''plus'' tick in the security

[5] *See* Securities Exchange Act Release No. 35837 (June 12, 1995), 60 FR 31749 (June 16, 1995).

[6] Telephone conversation between Jeff Rosenstrock, Senior Special Counsel, NYSE, and Ira Brandriss, Special Counsel, Division, Commission, and Christopher Solgan, Law Clerk, Division, Commission, on July 2, 2002.

[7] A hedge is deemed to be ''clearly related'' to the transaction precipitating the hedge if either the first or last transaction comprising the hedge is executed on the same trade date as the transaction that precipitates such hedge. Thus, the initiation of the hedge should be reasonably proximate to the transaction precipitating the hedge, but the member organization is not strictly required to complete the hedge on the same date as the precipitating transaction. The Exchange intends the hedge exemption to be construed narrowly and that the hedge transaction will be proximate in time to the precipitating transaction. *See* SR–NYSE–94–34, Amendment No. 6 (March 9, 2001), approved in Securities Exchange Act Release No. 44139 (March 30, 2001), 66 FR 18339 (April 6, 2001). For a more complete discussion, see Amendment No. 6 to SR–NYSE–94–34, which also described several interpretive issues which had arisen with respect to the amendment of NYSE Rule 92.

at a price higher than the lowest price at which any block was acquired in a previous transaction on July 1, provided that the person responsible for the entry of such order to purchase the security had knowledge of the block position.[8]

The Exchange also proposes to replace the term ''trading account'' in paragraph (a) of NYSE Rule 97 with ''proprietary account'' so as to clarify that NYSE Rule 97's restrictions may apply regardless of where the long facilitation position is placed, *e.g.,* a facilitation account or a trading account.

(2) Statutory Basis

The Exchange believes that the basis for the proposed rule change is the requirement under Section 6(b)(5) of the Act[9] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–2001–24 and should be submitted by August 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18223 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

[8] Under the proposed language to NYSE Rule 97, ''a member, allied member, or an employee of a member organization responsible for entering proprietary orders shall be presumed to have knowledge of a particular block position unless the member organization has implemented a reasonable system of internal policies and procedures to prevent the misuse of information about block positions by those responsible for entering such proprietary orders.''

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46190; File No. SR–PCX–2002–33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., To Revise the Process for Designating Arbitrators for Member-to-Member Disputes

July 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 30, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend PCX Rule 12.8(e) to revise the process for designating arbitrators for member-to-member disputes. Text in brackets indicates material to be deleted, and text in italics indicates material to be added.

* * * * *

Pacific Exchange, Inc., Rules of The Board of Governors

Rule 12

Arbitration

Designation of [Number of] Arbitrators

Rule 12.8(a)–(d)—No change.

(e) Member Controversies. [(1)] In all arbitration matters not involving public customers[,] *and where the matter in controversy involves an amount that is $30,000 or less (exclusive of interest and costs)*, the Director of Arbitration [shall] *will appoint an arbitration panel composed of one securities industry arbitrator unless the parties request and mutually agree to the appointment of a public arbitrator* [assign the matter to a panel consisting of members of the Arbitration Committee]. *If the amount involved in the controversy exceeds $30,000 (exclusive of interest and costs), the Director of Arbitration will appoint an arbitration panel composed of three or five arbitrators from the securities industry unless the parties request and mutually agree to a different panel composition.* [Such] [m]*M*embers of the arbitration panel *will* [shall] not be affiliated with any of the parties to the controversy or have any interest in the matter to be heard. [For controversies involving an amount of $10,000 or less, the panel shall consist of one (1) member. For all other controversies, the panel shall consist of three (3) members.]

Commentary:

.01—No change.

(f)—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX 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 current PCX rules divide arbitration claims between matters involving public customers (''Public Controversies'') and matters not involving public customers (''Member Controversies''). Public Controversies are addressed in PCX Rules 12.8(a) and (b), which provide for one arbitrator where the matter in controversy does not exceed $30,000 and for three to five arbitrators where the matter exceeds $30,000. Arbitrators for Public Controversies are selected by the Director of Arbitration who appoints a panel from the existing pool of arbitrators of the Exchange.[3] Member Controversies are covered by Rule 12.8(e), which provides for a panel consisting of one Arbitration Committee member for controversies involving an amount of $10,000 or less, and a panel of three Arbitration Committee members for all other controversies.

The proposed rule would provide a new selection process for Member Controversies. Specifically, the proposed rule would eliminate the current reference to the Arbitration Committee in Rule 12.8(e) and provide for the Director of Arbitration to appoint a panel from the same existing pool of arbitrators that the Exchange currently uses for Public Controversies. Also, the proposed rule would state that if the matter in controversy involves an amount that is $30,000 or less (exclusive of interest and costs), the Director of Arbitration would appoint an arbitration panel composed of one securities industry arbitrator, unless the parties request and mutually agree to the appointment of a public arbitrator. However, if the amount involved in the controversy exceeds $30,000 (exclusive of interest and costs), the Director of Arbitration would appoint an arbitration panel composed of three or five arbitrators from the securities industry unless the parties request and mutually agree to a different panel composition.

A ''securities industry arbitrator'' is currently defined as a person: associated with a member, or broker/dealer, government securities broker, government securities dealer, municipal securities dealer or registered investment advisor; or who has been associated with any of these entities within the past three years; or who is retired from any of these entities; or who is an attorney, accountant or other professional who devoted twenty percent or more professional work effort to securities industry clients within the last two years.[4] An arbitrator who is not from the securities industry is deemed a public arbitrator.[5] Public arbitrators may not have a spouse or other member of the household who is a person associated with a registered broker dealer, municipal securities dealer, government securities broker, government securities dealer or investment advisor.[6] Members of an arbitration panel will not be affiliated with any of the parties to the controversy or have any interest in the matter to be heard.[7]

PCX believes that the proposed rule change would simplify the PCX arbitrator selection process for Member Controversies by coordinating the rule with existing rules on Public Controversies. The proposed rule would provide this uniformity by raising the amount in controversy from $10,000 to $30,000 as the threshold in determining whether the controversy would be heard by at least three arbitrators. This proposed threshold would be consistent with PCX Rules for Public Controversies. The proposed rule would also provide for a consistent source of arbitrators by using the same arbitrator list for the selection of arbitrators for both Public and Member Controversies.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(A) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All

[3] The Exchange's Director of Arbitration maintains a list of arbitrators who are qualified approved applicants.

[4] *See* PCX Rule 12.8(c).

[5] *See* PCX Rule 12.8(d).

[6] *See* PCX Rule 12.8(d).

[7] *See* PCX Rule 12.8(e).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

submissions should refer to File No. SR–PCX–2002–33 and should be submitted by August 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18225 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46193; File No. SR–PCX–2002–35]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Housekeeping and Technical Amendments to PCXE Rules in Order to Incorporate Those Rules Into the New PCXE Rules Governing the Archipelago Exchange Facility

July 12, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 14, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly owned subsidiary, PCX Equities, Inc. (''PCXE''), proposes to make various housekeeping and technical changes to certain previously approved PCXE rules in order to incorporate those rules into the new PCXE rules governing the Archipelago Exchange (''ArcaEx'') facility. The text of the proposed rule change is available at the Exchange 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

On October 25, 2001, the Commission approved a proposed rule change by the PCX to establish ArcaEx, a new electronic trading facility of PCXE.[3] ArcaEx is a fully electronic securities trading facility for use by Equity Trading Permit (''ETP'') Holders and their customers. PCX and PCXE are responsible for all regulatory functions related to the facility, and Archipelago Exchange, L.L.C., a subsidiary of Archipelago Holdings, L.L.C., is responsible for the business of the facility to the extent that these activities are not inconsistent with the regulatory and oversight functions of PCX and PCXE. ArcaEx commenced operations on March 22, 2002, replacing the PCXE's traditional trading floor facilities.

With this filing, PCX proposes to make various housekeeping and technical changes to certain previously approved PCXE rules in order to incorporate those rules into the new PCXE rules governing ArcaEx. A summary of the proposed changes to the text of the PCXE rules are explained below.

a. Audit Committee Requirements for Listed Companies

The Exchange proposes to amend PCXE Rule 5.3(b) by adding language regarding audit committee requirements for listed domestic issuers. The rule change requires listed companies to adopt formal written charters and establishes composition requirements for audit committees including expertise and independence criteria for committee members. The SEC previously approved the proposed rule text on February 7, 2001.[4] The Exchange is proposing to incorporate the rule change into the new set of rules governing the ArcaEx facility.

b. Supervisory Procedures

The Exchange proposes to add PCXE Rule 6.18 relating to Supervisory Procedures. Under this proposed rule, each ETP Holder must establish and maintain a supervisory system to supervise the activities of its associated persons and the operations of its business. The SEC published the original rule filing on January 8, 2001.[5] The Exchange is proposing to incorporate the rule change into the new set of rules governing the ArcaEx facility. In addition, the Exchange proposes to make technical changes to the rule text as originally approved by the Commission by deleting references to the terms ''Equity ASAP Holder'' and ''ETP Firm.'' These membership categories are no longer applicable under ArcaEx's market structure.[6]

c. Trust Issued Receipts

On April 16, 2001, the SEC approved an Exchange rule proposal to adopt generic listing requirements for Trust Issued Receipts (''TIRs'').[7] The Exchange is proposing to incorporate the rule change into the new set of rules governing the ArcaEx facility. The proposed listing and maintenance standards for securities on TIRs are set forth respectively in Commentary .01 to PCXE Rule 8.200(a), and in Rule 8.200(d). Also, minor conforming word changes have been made to reflect the simplified membership structure under ArcaEx.[8]

d. Electronic Mail Addresses

The Exchange proposes to incorporate into the new PCXE rules for ArcaEx a provision requiring all ETP Holders to establish and maintain an Internet electronic mail account with the PCXE. The SEC published the original rule filing on January 29, 2001.[9] The Exchange proposes to renumber former PCXE Rule 2.26 as new PCXE Rule 2.23, and is also modifying the rule text by eliminating references to ''Equity ASAP Holder'' and ''ETP Firm'' because these membership categories are no longer applicable under ArcaEx's market structure.[10]

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (Order approving File No. SR–PCX–00–25) (''ArcaEx Approval Order'').

[4] *See* Securities Exchange Act Release No. 43941 (February 7, 2001), 66 FR 10545 (February 15, 2001) (Order approving File No. SR–PCX–00–40).

[5] *See* Securities Exchange Act Release No. 43817 (January 8, 2001), 66 FR 3636 (January 16, 2001) (SR–PCX–00–43).

[6] *See* Securities Exchange Act Release No. 43608 (November 21, 2000), 65 FR 78822 (December 15, 2000) (SR–PCX–00–25) (''ArcaEx Proposing Release'').

[7] *See* Securities Exchange Act Release No. 44182 (April 16, 2001), 66 FR 21798 (May 1, 2001) (Order approving File No. SR–PCX–2001–01).

[8] See ArcaEx Proposing Release, *supra* note 6.

[9] *See* securities Exchange Act Release No. 43898 (January 29, 2001), 66 FR 8832 (February 2, 2001) (SR–PCX–01–02).

[10] *See* ArcaEx Proposing Release, *supra* note *6*.

e. Exchange-Traded Funds (''ETFs'')

On July 12, 2001, the SEC approved an Exchange rule proposal to adopt generic listing requirements for Investment Company Units (''ICUs'') and Portfolio Depositary Receipts (''PDRs'') (collectively known as ETFs).[11] The rules allow PCXE to begin trading qualifying products pursuant to Rule 19b–4(e) under the Act without submitting a formal rule filing to the SEC. The Exchange's current rules for the initial and continued listing of ICUs and PDRs are set forth in PCXE Rules 5.2(j)(3)[12] and 8.100, respectively. The Exchange proposes to incorporate the rule changes using the same numbering sequence into the new set of rules governing the ArcaEx facility. Also, minor conforming changes to the text have been made to reflect the simplified membership structure of ArcaEx.[13]

f. Minor Rule Plan Amendments

On July 27, 2001, the SEC approved an Exchange rule proposal increasing the fines for violations of certain rules under the PCXE's Minor Rule Plan.[14] The Exchange is proposing to incorporate the increased Minor Rule Plan fines into the new set of rules governing the ArcaEx facility. However, the Exchange notes that the Minor Rule Plan fines for violations relating to floor trading and specialists (*e.g.,* admission to and conduct on the trading floor) have not been included in the proposed rules because they are not applicable to the ArcaEx trading environment.

g. Conversion to Decimals

The Exchange proposes to incorporate into the new PCXE rules for ArcaEx several technical revisions to its equities trading rules in order to eliminate references to fractional pricing. The SEC published the rule filing on November 19, 2001.[15] Minor word changes and revisions in the numbering of the rules have been made to conform the proposed rules to the new PCXE rules for ArcaEx. In addition, the changes made to former PCXE Rule 7.12 (Firm Quotations) and Rule 7.70 (Pacific Computerized Order Access System (''P/COAST'')) have been omitted from inclusion in the new PCXE rules. PCXE Rule 7.12 has been replaced in its entirety with new PCXE Rule 7.17. Also, with the elimination of trading floor and the introduction of the ArcaEx trading system, Rule 7.70 relating to P/COAST becomes obsolete.

h. Intermarket Trading System (''ITS'')

The Exchange proposes to amend PCXE Rule 7.55(b)(2)(F), formerly Rule 7.66(b)(2)(F), to conform to the seventeenth amendment to the restated ITS Plan.[16] Presently, Rule 7.55(b)(2)(F) provides that the sender of an ITS commitment may designate a time period during which a commitment will be irrevocable following acceptance by the ITS system. The ITS Plan provides for three irrevocable time-period options consisting of 30-seconds, one minute, and two minutes. Accordingly, the Exchange is proposing to replace the current language in subsection (b)(2)(F), which states that there are ''two'' irrevocable time-period options, with the word ''three'' thereby making the rule text consistent with the ITS Plan. The SEC published the original rule filing on March 19, 2002.[17] The Exchange is proposing to incorporate the rule change into the new set of rules governing the ArcaEx facility. In addition, the Exchange proposes to make technical changes to the rule text as originally approved by the Commission by deleting references to the terms ''Equity ASAP Holder'' and ''ETP Firm.'' These membership categories are no longer applicable under ArcaEx's market structure.[18]

i. Trading Hours for ICUs and PDRs

Prior to the implementation of ArcaEx, the Exchange's trading hours for series of ICUs and PDRs were between 6:30 a.m. and 1:30 p.m. (PT), as set forth in PCXE Rule 5.2(j)(3), Commentary .01(f) and Rule 8.100, Commentary .01(f), respectively. With this filing, the Exchange is proposing to change its trading hours for ICUs and PDRs to conform to the trading sessions of ArcaEx.

ArcaEx has three trading sessions each day the PCXE is open for business: The Opening Session (5 a.m. to 6:30 a.m. (PT)), the Core Trading Session (6:30 a.m. to 1 p.m. (PT)) and the Late Trading Session (1 p.m. to 5 p.m. (PT)).[19] Because ArcaEx operates the Opening and Late Trading Sessions outside of the traditional trading hours, the PCXE requires ETP Holders to provide certain customer disclosures.[20] In particular, no ETP Holder can accept an order from a non-ETP Holder for execution in the Opening or Late Trading Session without disclosing to such non-ETP Holder that:

(1) Except for market orders eligible for execution during the Market Order Auction, Limited Price Orders are the only orders that are eligible for execution during the Opening and Late Trading Sessions;

(2) An order must be designated specifically for trading in the Opening and/or Late Trading Session to be eligible for trading in the Opening and/or Late Trading Session; and

(3) Extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk.

These disclosures are designed to ensure that participants in the Opening or Late Trading Sessions understand the potential risks of that participation. Currently, several electronic trading systems provide investors the opportunity to trade these securities outside the regular trading hours. The PCX believes that the proposed rule amendment will enhance competition by providing investors with an alternative forum through which to trade these products. In addition, the Exchange believes that its proposal to expand PCXE's trading hours for ICUs and PDRs is consistent with the business hours for operating ArcaEx.[21]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [22] in general, and furthers the objectives of Section 6(b)(5) [23] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest.

[11] *See* Securities Exchange Act Release No. 44551 (July 12, 2001) 66 FR 37716 (July 19, 2001) (Order approving File No. SR–PCX–2001–14).

[12] The Exchange's definition of a ''Unit'' and the listing maintenance requirements for ICUs are contained in existing PCXE Rules 5.1(b)(15) and 5.5(g)(1), respectively.

[13] *See* ArcaEx Proposing Release, *supra* note 6.

[14] *See* Securities Exchange Act Release No. 44611 (July 27, 2001) 66 FR 40771 (August 3, 2001) (Order approving File No. SR–PCX–2001–19).

[15] *See* Securities Exchange Act Release No. 45077 (November 19, 2001), 66 FR 59280 (November 27, 2001) (SR–PCX–2001–39).

[16] *See* Securities Exchange Act Release No. 44903 (October 3, 2001), 66 FR 52159 (October 12, 2001) (Order approving Seventeenth Amendment to the ITS Plan).

[17] *See* Securities Exchange Act Release No. 45595 (March 19, 2002), 67 FR 14759 (March 27, 2002) (SR–PCX–2002–07).

[18] *See* ArcaEx Proposing Release, *supra* note 6.

[19] *See* PCXE Rule 7.34(a) (description of the ArcaEx trading sessions).

[20] *See* PCXE Rule 7.34(e) (description of the required customer disclosures).

[21] *See* ArcaEx Approval Order, *supra* note 3.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [24] and subparagraph (f)(3) of Rule 19b–4 thereunder [25] because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2002–35 and should be submitted by August 9, 2002.

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(3).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18226 Filed 7–18–02; 8:45 am]

BILLING CODE 8010–01–P

[26] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before September 17, 2002.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW, Suite 6300, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, (202) 205–7528 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Business Loan Reconsideration Request.

Form No: N/A.

Description of Respondents: Individuals Seeking a Reconsideration of a Declined Business Loan.

Annual Responses: 1,800.

Annual Burden: 3,600.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping for Lenders

Form No's: N/A.

Description of Respondents: Small Business Lending Companies.

Annual Responses: 2,400.

Annual Burden: 2,400.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 02–18236 Filed 7–18–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4067]

Office of International Energy and Commodities Policy Finding of No Significant Impact: Reef International, L.L.C.

AGENCY: Department of State.

ACTION: Notice of a finding of no significant impact with regard to an application to construct, operate, and maintain a pipeline and related facilities to transport liquefied petroleum gas, including propane and butane, across the U.S.-Mexico border at Maverick County, Texas.

SUMMARY: The Department of State has conducted an environmental assessment of the proposed construction by Reef International, L.L.C. of a pipeline and related facilities for the transport of liquefied petroleum gas, including propane and butane, crossing the international boundary at Maverick County, Texas. This information may be viewed upon request in the Office of International Energy and Commodities Policy at the Department of State.

Based on this information, the Department of State has concluded that issuance of a Presidential Permit authorizing construction of the pipeline will not have a significant effect on the existing vegetation and wildlife, water resources, land use, air quality, and human population within the United States. In reaching this conclusion, the Department considered several alternatives, including a no-action alternative.

In accordance with the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq., Council on Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13, and Department of State Regulations, 22 CFR 161.8(C), an environmental impact statement will not be prepared.

FOR FURTHER INFORMATION ON THE PIPELINE PERMIT APPLICATION CONTACT: Pedro G. Erviti or Matthew T. McManus, Office of International Energy and Commodities Policy, Department of State, Washington, DC 20520; or by telephone at (202) 647–2857 or (202) 647–3423; or by fax at (202) 647–4037.

SUPPLEMENTARY INFORMATION: Reef is a limited liability corporation organized under the laws of the State of Texas with its principal office located in Corpus Christi, Texas. The proposed pipeline would be adjacent to a proposed natural gas pipeline for which Reef has received a Presidential permit from the Federal Energy Regulatory Commission. On January 31, 2002, the

Department of State published in the **Federal Register** a Notice of Receipt of Application for a Presidential Permit. No public comments were received, and the federal agencies consulted expressed no opposition to issuing the permit. A finding of no significant impact is adopted, and an environmental impact statement will not be prepared.

Dated: July 15, 2002.

Matthew McManus,

Acting Chief, Energy Producer-Country Affairs Division, Office of International Energy and Commodities Policy, Department of State.

[FR Doc. 02–18232 Filed 7–18–02; 8:45 am]

BILLING CODE 4710–07–P

TENNESSEE VALLEY AUTHORITY

Environmental Assessment or Environmental Impact Statement—Proposed Commercial Recreational and Residential Developments on Tellico Reservoir, Loudon County, TN

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Extension of public comment period for scoping.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508), Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR part 800), and TVA's procedures implementing the National Environmental Policy Act (NEPA). On June 17, 2002, TVA published a Notice of Intent to prepare an Environmental Assessment or Environmental Impact Statement for the recreational and residential developments proposed on Tellico Reservoir, Loudon County, Tennessee (**Federal Register,** Volume 67, Number 116, Pages 41292–41293). The comment period for the scoping phase of this environmental review is extended from July 26, 2002 to August 16, 2002.

ADDRESSES: Written comments should be sent to Jon M. Loney, Manager, NEPA Administration, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499.

FOR FURTHER INFORMATION CONTACT: Richard L. Toennisson, NEPA Specialist, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902–1499; telephone: (865) 632–8517; or e-mail: *rltoennisson@tva.gov.*

Dated: July 12, 2002.

Kathryn J. Jackson,

Executive Vice President, River System Operations and Environment.

[FR Doc. 02–78232 Filed 7–18–02; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–12763]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Towing Safety Advisory Committee's (TSAC) Working Group on Regulation Review will meet to discuss various issues relating to current U.S. Coast Guard regulations as they pertain to towing vessels. The meeting will be open to the public.

DATES: The TSAC Working Group will meet on Tuesday, August 13, 2002, from 1 p.m. to 4 p.m. and on the following day, Wednesday, August 14, 2002, from 8 a.m. to 12 noon. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before August 12, 2002. Requests to have a copy of your material distributed to each member of the Working Group should reach the Coast Guard on or before August 7, 2002.

ADDRESSES: The Working Group will meet in room 1103, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. Send written material and requests to make oral presentations to Mr. Gerald P. Miante, Commandant (G–MSO–1), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Assistant Executive Director of TSAC, telephone 202–267–0221, or fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda tentatively includes the following:

1. Review current U.S. Coast Guard regulatory requirements pertaining to uninspected towing vessels;
2. Assess the adequacy of these existing regulations;
3. Identify any gaps in these regulations and research where else those gaps may be addressed— such as in voluntary or non-regulatory programs; and
4. Ascertain the best method to address any gaps not addressed in regulatory or non-regulatory products.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Assistant Executive Director no later than August 12, 2002. Written material for distribution at the meeting should reach the Coast Guard no later than August 7, 2002. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 15 copies to Mr. Gerald P. Miante at the address in **ADDRESSES** no later than August 7, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Assistant Executive Director as soon as possible.

Dated: July 11, 2002.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 02–18216 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on Application 02–14–C–00–ORD To Impose a Passenger Facility Charge at Chicago O'Hare International Airport, Chicago, IL and Use PFC Revenue at Gary/Chicago Airport, Gary, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport and use the revenue from a PFC at Gary/Chicago Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 312, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas R. Walker, Commissioner, of the City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, Illinois 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip M. Smithmeyer, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 312, Des Plaines, Illinois 60018, (847) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Chicago O'Hare International Airport and to use the revenue at Gary/Chicago Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 8, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 24, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 2016.

Proposed charge expiration date: February 1, 2017.

Total estimated PFC revenue: $2,565.000.

Brief description of proposed projects: Acquire snow removal equipment (snow broom), expand snow removal equipment building, rehabilitate runway 12/30, terminal apron expansion and loading bridge installation. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on July 11, 2002.

Mark McClardy,

Manager, Planning and Programming Branch Airports Division, Great Lakes Region.

[FR Doc. 02–18209 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–06–C–00–LSE To Impose and Use the Revenue From a Passenger Facility Charge at La Crosse Municipal Airport, La Crosse, WI

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at La Crosse Municipal Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Michael A. Daigle, Airport Manager of the La Crosse Municipal Airport at the following address: La Crosse Municipal Airport, 2850 Airport Road, La Crosse, WI 54603.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of La Crosse under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450, 612–713–4363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at La Crosse Municipal Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 2, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of La Crosse was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 3, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2003.

Proposed charge expiration date: May 1, 2005.

Total estimated PFC revenue: $1,022,045.

Brief description of proposed projects: Reconstruct runway 13/31, replace baggage handling system, airfield electrical upgrade (phase 1), acquire snow removal equipment, replace terminal signage, conduct environmental assessment for parallel taxiway 18/36, PFC administration.

Class or classes or air carriers, which the public agency has requested, not be required to collect PFCs: No request to exclude carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of La Crosse.

Issued in Des Plaines, Illinois on July 11, 2002.

Mark McClardy,

Manager, Planning and Programming Branch Airports Division, Great Lakes Region.

[FR Doc. 02–18212 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–04–C–00–TOL To Impose and Use the Revenue From a Passenger Facility Charge at Toledo Express Airport, Toledo, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the

application to impose and use the revenue from a Passenger Facility Charge (PFC) at Toledo Express Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. The application may be reviewed in person at this location.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Paul L. Toth, Director of Toledo Express Airport at the following address: Toledo-Lucas County Port Authority, 11013 Airport Highway, Box 11, Swanton, Ohio 43558.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Toledo-Lucas County Port Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road Belleville, Michigan 48111, 734–487–7282. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Toledo Express Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 3, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Toledo-Lucas County Port Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than October 26, 2002.

Level of the proposed PFC: $4.50.

Proposed charge effective date: September 1, 2003.

Proposed charge expiration date: August 1, 2006.

Total estimated PFC revenue: $3,921,997.

Brief description of proposed projects: Terminal roadway reconstruction, reconstruct air carrier, purchase snow removal equipment, terminal renovations, replace aircraft rescue and fire fighting equipment, jet way replacement, taxiway D extension.

Class or classes of air carriers, which the public agency has requested to be required to collect PFCs: Non scheduled/on-demand air taxi operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Toledo Lucas County Port Authority.

Issued in Des Plaines, Illinois on July 11, 2002.

Mark McClardy,

Manager, Planning and Programming Branch Airports Division, Great Lakes Region.

[FR Doc. 02–18210 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–03–C–00–YNG To Impose and Use the Revenue From a Passenger Facility Charge at Youngstown-Warren Regional Airport, Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Youngstown-Warren Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. The application may be reviewed in person at this location.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas P. Nolan, Airport Director of the Youngstown-Warren Regional Airport at the following address: Youngstown-Warren Regional Airport, 1453 Youngstown-Kingsville Road, N.E., Vienna, Ohio 44473–9797.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Western Reserve Port Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, 734–487–7282. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Youngstown-Warren Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 2, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Western Reserve Port Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than October 22, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: August 1, 2002.

Proposed charge expiration date: October 1, 2007.

Total estimated PFC revenue: $463,187.

Brief description of proposed projects: PFC Program administration, runway safety area modification, terminal sanitary sewer, general aviation apron, snow removal equipment-blower jet broom, passenger loading bridge, terminal baggage conveyor, land acquisition for runway 32 approach.

Class or classes of air carriers, which the public agency has requested to be required to collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Western Reserve Port Authority.

Issued in Des Plaines, Illinois on July 11, 2002.

Mark McClardy,

Manager, Planning and Programming Airports Division, Great Lakes Region.

[FR Doc. 02–18211 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement Withdrawal; Washtenaw County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent withdrawal.

SUMMARY: On August 27, 1992, the Federal Highway Administration issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the proposed reconstruction of US–12 from the east city limit of Saline to Munger Road in Washtenaw County, Michigan. This was updated on October 15, 2001. The proposed project involved the study of alternatives for the widening and reconstruction of the existing roadway. The Federal Highway Administration is issuing this Notice to withdraw its' original Notice of Intent dated August 27, 1992 and update of October 15, 2001.

SUPPLEMENTARY INFORMATION: Preliminary studies were undertaken which resulted in developing several alternatives to accommodate travel demand in the US–12 corridor. Public meetings were held to gather information and help shape the alternatives. A report was prepared on the Illustrative Alternative Evaluation Results. This report recommended the elimination from further consideration the alternatives that included realignment of the roadway, and carrying forward only those alternatives that utilize significant portions of the existing US–12 right-of-way. It was concluded that it is unlikely for the remaining alternatives to cause significant environmental impacts. As a result, the Federal Highway Administration had determined that an environmental impact statement is no longer needed. In lieu of an EIS, the Federal Highway Administration and the Michigan Department of Transportation are reclassifying the project as a Class III Action requiring the development of an Environmental Assessment. Should it be determined during this process that an EIS is needed for a proposed project, one will be prepared following a new Notice of Intent.

Issued on: July 8, 2002.

James A. Kirschensteiner,

Asst. Division Administrator, Lansing, Michigan.

[FR Doc. 02–18227 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Tuesday, August 20, 2002. The meeting runs from 8:30 a.m. to 1:30 p.m. The session includes the following items: (1) Call to Order; (2) Welcome, introductions, ITS America antitrust policy, conflict of interest statements; (3) Consent Agenda: (a) Approval of Minutes from May 2, 2002 Board Meeting; (b) Federal Report; (c) Finance Committee Report; (d) Approval of Bylaw Changes; (e) Homeland Security Task Force; (f) TEA–21 Reauthorization Task Force Report; (g) Council Reports: Coordinating Council; International Affairs; State Chapters; and Executive Forum for Business and Trade Report; (4) Chairman's Report; (5) President's Report; (6) Committee Appointments; (7) Dues and Revenue Task Force Report; and (8) DOT Program Advice; Proposed Intelligent Vehicle Initiative Advice Letter to U.S. DOT; (9) US DOT Program Advice: Homeland Security Supplement to 10-year ITS Program Plan; (10) Joint ''Future of ITS'' brochure by ITS America, ERTICO and ITS Asia-Pacific; (11) Board Retreat Action Items; (12) New Business; (13) Future Executive Committee & Board Meeting Schedule; (14) Adjournment.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Tuesday, August 20, 2002, from 8 a.m.–1:30 p.m.

ADDRESSES: Hilton Palacio del Rio, 200 South Alamo, San Antonio, Texas 78205. Phone: (210) 222–1400 and Fax: (210) 270–0761.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, D.C. 20590, (202) 366–0722. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: July 15, 2002.

Jeffrey F. Paniati,

Acting Associate Administrator, Office of Operations, Federal Highway Administration, and Acting Director, ITS Joint Program Office, U.S. Department of Transportation.

[FR Doc. 02–18217 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 10, 2002. No comments were received.

DATES: Comments must be submitted on or before August 19, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth Kline, Maritime Administration, 400 Seventh Street, Southwest, Washington, DC. Telephone: 202–366–5744; Fax: 202–366–7901 or e-mail: *kenneth.kline@marad.dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Application for Construction Reserve Fund and Annual Statements.

OMB Control Number: 2133–0032.

Type of Request: Extension of currently approved collection.

Affected Public: Owners or operators of vessels in the U.S. domestic or foreign commerce.

Form(s): None.

Abstract: In accordance with section 511 of the Merchant Marine Act of 1936, as amended, all citizens who own or operate vessels in the U.S. domestic or foreign commerce and desire ''tax'' benefits under the Construction Reserve Fund (CRF) program, are required to submit to MARAD an application for benefits. The annual statement provided to MARAD officials sets forth a detailed analysis of the CRF when each income tax return is filed. The application is required in order for MARAD to determine whether the applicant is qualified for the benefits, and the annual statements are required in order for MARAD to assure that the requirements of the program are being satisfied.

Annual Estimated Burden Hours: 189 hours.

Addresses: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

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 collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 15, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–18302 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12834]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WAVE DANCER.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 19, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12834. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* WAVE DANCER. *Owner:* Glenn M. Glesmann and William S. Kenney.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''Gross Tonnage—9, Net Tonnage—8, Length—30.3 ft., Breadth—11.7 ft., Depth—5.6 ft.''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* ''I intend to use the vessel for short charters (mostly day sails) carrying up to six passengers. Charters would originate in the waters of Cape Ann, Massachusetts, including the towns of Rockport, Gloucester, and Essex. The purpose of these charters is to provide an opportunity for passengers to enjoy the local waters on a seaworthy sailing vessel with an experienced and licensed captain (Glen M. Glesmann, USCG Master 50 tons Inland Waters).''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1984. *Place of construction:* St. Catherine's, Ontario, Canada.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''Currently, there are few operators of sailing vessels carrying passengers in the Cape Ann area. I know of a 65 foot schooner operating out of Gloucester (The Thomas Lannon), carrying up to 49 passengers. A smaller sailing vessel named CHRISSY advertises for day trips out of Essex for up to six passengers. The vast majority of operators in the area cater to fishing, whale watching or harboring tours on motorized crafts.

Because there are so few operators of commercial sailing craft in the area, I believe me impact on existing would be negligible. My charter operation would be a part-time pursuit, further lessening the impact on full-time operators.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''I believe that granting this waiver would have no impact on US shipyards. Only a tiny fraction of boats of my type find their way into commercial use. US

manufacturers of auxiliary sailing vessels cater to the vast recreational market with little concern for commercial use vessels.''

Dated: July 15, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–18299 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12833]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FLIGHT.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 19, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12833. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* FLIGHT. *Owner:* Flight Holding Corp.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''59.3 ft.; Sloop rigged cruising sailing, beam 16.2, draft 9.0; Tonnage: gross 43, net 38.''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* ''Charter with captain in coastal waters of East Coast of United States.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1990. *Place of construction:* Tan Shui Taipei, Republic of China.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:*

''a. Statement of impact on other commercial passenger vessel operators: None anticipated.

b. Statement of operations of existing operators: Existing charter operators offer a wide variety of dissimilar sail and power charter boats, with strong seasonal demand.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''None.''

Dated: July 15, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–18300 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12832]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel AMISTAD.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 19, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12832. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket

is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* AMISTAD. *Owner:* Seaway Inc.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''34 ft. length, 10.2 ft. Breadth, 7.0 Ft. Depth, 12 Gross, 11 Net Tons. The vessel displaces 19,000 lbs.''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* ''I intend to use the vessel for carrying six or fewer passengers for hire in the Chesapeake Bay and tributaries.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1967. *Place of construction:* Yokosuka, Japan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''This waiver will have no negative impact on other commercial passenger vessel operators. While there are a number of wooden sailing vessels offering cruises operating out of the northern Chesapeake Bay, I believe they are larger passenger vessels, carrying more than 12 passengers.

I hope the waiver will have positive impact on the larger industry in the area. By expanding the availability of sailing trips to smaller groups, it should help increase the local market for sailing cruises. In addition, I have listed the vessel with the State of Maryland's Department of National Resources as an ''Historical Watercraft''. As the vessel was designed by a Maryland Naval Architect, I wish to focus my passengers on the local tradition of wooden sailing vessels.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''This waiver should have a positive impact on U.S. Shipyards, as repairs and renovations to this vessel will be made in the U.S. For example, I recently hired a local builder of wooden boats to do some repair and maintenance work on the vessel's hull. In addition, although the vessel was built in Japan, it's designer is a local Naval Architect.''

Dated: July 15, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–18301 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Applications numbers with the suffix ''M'' denote a modification request. These applications have separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before August 5, 2002.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 4th Street SW., Washington, DC or at *http://dms.dot.gov.*

This notice is receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC on July 12, 2002.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of Exemption
7657–M		Welker Engineering Company, Sugar Land, TX (See Footnote 1)	7657
8232–M		National Refrigerants, Inc., Philadelphia, PA (See Footnote 2)	8232
10389–M		Great Lakes Chemical Corporation, El Dorado, AR (See Footnote 3)	10389
10789–M		Allied Universal Corporation, Miami, FL (See Footnote 4)	10789
11099–M		AMKO A Service Company, Gnadenhutten, OH (See Footnote 5)	11099
11202–M		Newport News Shipbuilding & Dry Dock Company, Newport News, VA (See Footnote 6).	11202
11537–M		Interstate Chemical Company, Inc., Hermitage, PA (See Footnote 7)	11537
11650–M		Autoliv ASP, Inc., Ogden, UT (See Footnote 8)	11650

Application No.	Docket No.	Applicant	Modification of Exemption
11753–M		Ashland, Inc., Columbus, OH (See Footnote 9)	11753
11970–M	RSPA–97–2993	ExxonMobil Chemical Company, Houston, TX (See Footnote 10)	11970
12690–M	RSPA–01–9656	Air Liquide America Corporation, Houston, TX (See Footnote 11)	12690
12750–M	RSPA–01–10121	Questar, Inc., North Canton, OH (See Footnote 12)	12750
12844–M	RSPA–01–10753	Delphi Automotive Systems, Troy, MI (See Footnote 13)	12844
12855–M	RSPA–01–10914	Kraton Polymers U.S. LLC, Belpre, OH (See Footnote 14)	12855
12917–M	RSPA–02–12038	Northwest Ohio Towing & Recovery, Inc., Beaverdam, OH (See Footnote 15)	12917
12981–M		Airgas, Inc., Cheyenne, WY (See Footnote 16)	12981

(1) To modify the exemption to authorize the transportation of additional Division 2.1 and 2.2 materials in non-DOT specification stainless steel cylinders.

(2) To modify the exemption to authorize the transportation of a Division 2.2 material in non-DOT specification portable tanks.

(3) To modify the exemption to authorize the transportation of a Division 6.1 and additional Class 8 material in tank cars.

(4) To modify the exemption to authorize the retest period from 2 to 5 years for non-DOT specification fully open-head steel salvage cylinders and the use of a 3AA480 cylinder for the transportation of Division 2.3 materials.

(5) To modify the exemption to authorize retesting of DOT Specification 3A and 3AA cylinders by acoustic emission (AE) and ultrasonic examination (UE) method for the transportation of Division 2.1 and 2.2 materials.

(6) To modify the exemption to authorize the transportation of Division 5.2, 6.1 and additional Division 5.1 materials across a public road via motor vehicle.

(7) To modify the exemption to authorize the transportation of an additional Class 8 material in an intermediate bulk container (IBC) that is securely mounted to a flatbed trailer.

(8) To modify the exemption to authorize an additional design qualification of the non-DOT specification pressure vessel sidewall opening for the transportation of Division 2.2 materials.

(9) To modify the exemption to authorize the use of a 300 kpa rated container for the transportation of a Class 8 material.

(10) To modify the exemption to authorize the use of alternative size non-DOT specification steel portable tanks for the transportation of a Division 4.2 material.

(11) To modify the exemption to authorize cargo vessel as an additional mode for the transportation of a Division 2.3 material in DOT Specifications 3AA steel cylinders.

(12) To modify the exemption to authorize an additional 11HH2 Rigid Combination Intermediate Bulk Container (IBC) marking code for use as outer packaging for lab pack applications transporting various Class and Division materials.

(13) To modify the exemption to authorize relief from the requirement for each non-DOT specification pressure vessel longitudinal weld seam to be 100% radiographically inspected for the transportation of Division 2.2 materials.

(14) To reissue the exemption originally issued on an emergency basis for the transportation of non-DOT specification pressure vessels containing a Class 3 material.

(15) To reissue the exemption originally issued on an emergency basis for the transportation of Class 3 materials in non-DOT specification cargo tanks (aviation refuelers).

(16) To reissue the exemption originally issued on an emergency basis for the transportation of a Division 2.2 material in DOT Specification MC–330 and MC–331 cargo tank motor vehicles with an alternate means to shut down the flow of product.

[FR Doc. 02–18208 Filed 7–18–02; 8:45am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before August 19, 2002.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comment should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (*See* Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street SW., Washington, DC 20590 or at *http://dms.dot.gov.*

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on July 12, 2002.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
13046–N		Consani Engineering, Elsies River, South Africa.	49 CFR 178.245–1(a)	To authorize the manufactue, marking, sale and use of certain DOT Specification 51 steel portable permanently fixed within ISO frames designed in accordance with Section VIII, Division II of the ASME Code instead of Section VIII, Division 1 for use in transporting Division 2.1, 2.2 an 2.3 hazardous materials. (modes 1, 2, 3)
13047–N		Brenntag Mid-South, Inc., Henderson, KY.	49 CFR 173.34(d), 179.300–12(b), 179.300–13(a), 179.300–14.	To authorize the transportation of cylinders containing hazardous materials equipped with emergency A&B kits. (mode 1)
13048–N		Department of Energy/ Richland Operations Office, Richland, WA.	49 CFR 173.244	To authorize the one-time, one-way transportation in commerce of a non-DOT specification containment system for waste disposal. (mode 1)
13049–N		Honeywell International Inc., Morristown, NJ.	49 CFR 177.834(i)(3)	To authorize cargo tanks to remain connected while standing without the physical presence of an unloader. (mode 1)
13050–N		Honeywell International, Morristown, NJ.	49 CFR 172.704(c)	To authorize the transportation in commerce of cylinders containing Division 2.3 hazardous materials to transported with alternative labels. (modes 1, 2, 3)
13051–N		IBC Product Group of the Reusable Industrial Assoc, Landover, MD.	49 CFR 107.601, 171.2(a) & (b), 172 Subpart G, 172.202, 172.204, 172.504.	To authorize the transportation in commerce of certain emptied intermediate bulk containers (IBCs) for purposes of reconditioning, remanufacturing, repair, routine maintenance, or recertification with a modified shipping document and no placarding. (mode 1)
13052–N		Questar, Inc., North Canton, OH.	49 CFR 172.301(a), 172.301(c), 172.400(a), 173.173(b)(2), 173.242.	To authorize the manufacture, marking, sale and use of UN 11G fiberboard intermediate bulk containers for use as the outer packaging for certain waste paints and waste paint related material, Class 3 in 5 gallon pails. (mode 1)
13053–N		Honeywell International Inc., Morristown, NJ.	49 CFR 174.67(i) & (j)	To authorize rail cars to remain connected while standing without the physical presence of an unloader. (mode 2)
13054–N		CHS Transportation, Mason City, IA.	49 CFR 173.315(e)	To authorize the transportation in commerce of MC330 & MC331 cargo tanks equipped with an alternative gauging device for use in transporting Division 2.1 and 2.2 material. (mode 1)
13055–N		Stenstrom Petroleum, Equipment Group, Rockford, IL.	49 CFR 172.504(c)(1)(d)	To authorize the transportation in commerce of specially designed equipment with residual amounts of hazardous materials to be transported without placarding. (mode 1)
13056–N		American Type Culture Collection (ATCC), Manassas, Va.	49 CFR 172, Subpart C, 173.134	To authorize the transportation in commerce of certain infectious substances in special packagings. (mode 1)
13057–N		MINTEQ International Inc. Eastern, PA.	49 CFR 172 Subparts D, E & F, 173.24(c) Subparts E & F of Part 173.	To authorize the transportation in commerce of metal tubing containing hazardous materials to be transported with minimal regulation. (modes 1, 2, 3)
13059–N		GE Plastics, Burkville, AL.	49 CFR 177.834(i)(3)	To authorize cargo tanks to remain connected while standing without the physical presence of an unloader. (mode 1)
3060–N		Spence Engineering Company, Inc., Walden, NY.	49 CFR Parts 171–180	To authorize the manufacture, mark, sale and use of specially designed equipment containing various limited quantities of hazardous materials with minimal regulation. (modes 1, 3, 4)
13061–N		Dow AgroSciences L.L.C., Indianapolis, IN.	49 CFR 172.302(a), 172.504(a)	To authorize the transportation in commerce of Division 6.1 liquid fumigants in non-DOT specification cargo tanks equipped with an alternative pressure relief system. (mode 1)

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
13062–N		Safety-Kleen (BDT), Inc., Columbia, SC.	49 CFR 173.40(c)(2)	To authorize the transportation in commerce of non-DOT specification cylinders filled with a Division 2.3 Inhalation Hazard Zone A, material or a Division 6.1 material. (mode 1)
13063–N		Air Products Polymers, L.P., Dayton, NJ.	49 CFR 174.67(i) & (j)	To authorize the transportation in commerce of rail cars containing Class 3 hazardous materials to remain connected while standing without the physical presence of an unloader. (mode 2)
13064–N		Pressed Steel Tank Co., Milwaukee, WI.	49 CFR 173.300a, 173.34(e)	To authorize the manufacture, marking, sale and use of a non-DOT specification cylinder for use in transporting Division 2.3 hazardous materials. (modes 1, 2, 3)

[FR Doc. 02–18228 Filed 7–18–02; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34079]

San Jacinto Rail Limited—Construction Exemption—And The Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, TX

AGENCIES: *Lead:* Surface Transportation Board. *Cooperating:* U.S. Coast Guard, Federal Aviation Administration, National Aeronautics and Space Administration.

ACTION: Notice of availability of final scope of study for the Environmental Impact Statement (EIS).

SUMMARY: On August 30, 2001, San Jacinto Rail Limited (SJRL) and The Burlington Northern and Santa Fe Railway (BNSF) (referred to collectively as the Applicants) filed a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority for construction by SJRL and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve construction of approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop). Trains operating over the new rail line would originate at BNSF's New South Yard and operate via trackage rights over the Union Pacific Railroad Company's (UP) Glidden Subdivision and UP's Galveston Subdivision, also known as the former Galveston, Henderson, and Houston Railroad (GH&H) line, to the beginning of the new rail line near Ellington Field. Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. To help determine the scope of the EIS, and as required by the Board's regulations at 49 CFR 1105.10(a)(2), SEA published in the **Federal Register** and made available to the public on November 26, 2001, the Notice of Availability of Draft Scope of Study for the EIS, Notice of Scoping Meetings, and Request for Comments. SEA held four public scoping meetings at the Pasadena Convention Center on January 14 and 15, 2002. The scoping comment period originally concluded February 1, 2002, but, in response to requests, SEA extended the scoping period an additional 30 days, to March 14, 2002. During the scoping comment period, the U.S. Coast Guard (USCG), the Federal Aviation Administration (FAA), and the National Aeronautics and Space Administration (NASA) requested cooperating agency status in the preparation of the EIS. After review and consideration of all comments received, this notice sets forth the Final Scope of the EIS. The Final Scope adopts the Draft Scope, which is provided as Attachment A, and reflects any changes to the Draft Scope as a result of the comments, summarizes and addresses the principal environmental concerns raised by the comments, and briefly discusses pertinent issues concerning this project that further clarify the Final Scope.

FOR FURTHER INFORMATION CONTACT: Ms. Dana White, SEA Project Manager, toll-free at 1–888–229–7857 (TDD for the hearing impaired 1–800–877–8339). The Web site for the Surface Transportation Board is *http://www.stb.dot.gov.*

Mr. Phil Johnson, U.S. Coast Guard, (504) 589–2965.

Ms. Nan Terry, Federal Aviation Administration, (817) 222–5607.

Ms. Perri Fox, National Aeronautics and Space Administration, (281) 483–3157.

This document is available in English and Spanish at the repositories listed below or by calling the toll-free number at 1–888–299–7857. In addition, a set of frequently asked questions in English and Spanish is provided as Attachment B for quick reference.[1]

San Jacinto College, Central Campus Library, 8060 Spencer Highway, Pasadena, TX 77505, (281) 476–1850.

San Jacinto College, North Campus Library, 5800 Uvalde Street, Houston, TX 77015, (281) 459–7116.

San Jacinto College, South Campus, 13735 Beamer Road, Houston, TX 77089, (281) 922–3416.

University of Houston, Clear Lake Campus, Alfred Neumann Library, 2700 Bay Area Boulevard, Houston, TX 77058, (281) 283–3930.

Freeman Memorial Branch Library, 16602 Diana Lane, Houston, TX 77062, (281) 488–1906.

Harris County Public Library, Evelyn Meador Branch, 2400 N. Meyer Road, Seabrook, TX 77586, (281) 474–9142.

Harris County Public Library, South Houston Branch, 607 Avenue A, South Houston, TX 77587, (713) 941–2385.

Pasadena Public Library, Fairmont Branch, 4330 Fairmont Pkwy, Pasadena, TX 77504, (713) 998–1095.

Pasadena Public Library, Main Branch, 1201 Jeff Ginn Memorial, Pasadena, TX 77506, (713) 477–0276.

Deer Park Public Library, 3009 Center Street, Deer Park, TX 77536–7099, (281) 478–7208.

[1] In addition, SEA has distributed extra copies ot numerous community groups that have previously distributed project information from SEA.

Houston Public Library, 500 McKinney Avenue, Houston, TX 77002, (713) 247–2222.
Park Place Regional Library, 8145 Park Place Blvd, Houston, TX 77017, (832) 393–1970.
Patricio Flores Library, 110 North Milby Street, Houston, TX 77003, (832) 393–1780.
Melcher Branch Library, 7200 Keller, Houston, Texas 77012, (832) 393–2480.
Bracewell Branch Library, 10115 Kleckley, Houston, Texas 77075, (832) 393–2580.

SUPPLEMENTARY INFORMATION:

Background

The Bayport Loop consists of approximately 24 shipper facilities. UP is the only railroad serving the Bayport Loop. UP acquired the existing Bayport Loop trackage in its merger with the Southern Pacific Rail Corporation (SP) in 1996. In the Board's final decision approving the merger,[2] and as a condition of the merger approval, the Board used its authority to grant trackage rights over former UP lines (but not former SP lines) to other rail companies to the extent required to ensure an equal level of competition to that which existed before the merger. The Board's decision included granting trackage rights to ensure access to competitive build-ins or build-outs. The Board stated that this would allow other rail companies to replicate the competitive options previously provided by the independent operations of UP and SP. The Board explained in its decision that shippers need not demonstrate the economic feasibility of a build-in or build-out proposal under this condition.

Before the UP/SP merger, the Bayport Loop was solely served by SP. UP operated the former GH&H rail line to the south of Ellington Field, and had an opportunity to construct a new rail line into the Bayport Loop to compete with SP. However, when the two companies merged in 1996, this competitive option would have been eliminated but for the merger condition noted above. Through the Proposed Action, the Applicants here[3] are seeking approval to create the competitive situation provided for by the Board's condition by utilizing trackage rights over the former GH&H line and constructing a rail line into the Bayport Loop.

BNSF would operate on average one train each way per day comprising 36 to 66 railcars, totaling 13,000 to 24,000 loaded railcars per year. The majority of the railcars would contain plastic pellets. Approximately 1,500 to 7,000 tank cars each year would contain hazardous materials or other miscellaneous inbound and outbound commodities.

Environmental Review Process

The Board is the lead agency, pursuant to 40 CFR 1501.5. SEA is responsible for ensuring that the Board complies with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4335, and related environmental statutes. SEA is the office within the Board responsible for completing the environmental review process. ICF Consulting of Fairfax, Virginia is serving as an independent third-party contractor to assist SEA in the environmental review process. SEA is directing and supervising the preparation of the EIS. The USCG, FAA, and NASA are cooperating agencies, pursuant to 40 CFR 1501.6. If the USCG, FAA, and NASA find the EIS adequate, they will base their decisions on it. The EIS should include all of the information necessary for decisions by the Board and the cooperating agencies (collectively, the agencies).

The NEPA environmental review process is intended to assist the agencies and the public to identify and assess the potential environmental consequences of a Proposed Action before a decision on the Proposed Action is taken. The NEPA regulations require the agencies to consider a reasonable range of feasible alternatives to the Proposed Action. The President's Council on Environmental Quality (CEQ), which oversees the implementation of NEPA, has stated in Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations that ''[R]easonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense * * *.'' In the EIS, the agencies are considering a full range of alternatives that meet the purpose and need of the project, as well as the No-Action Alternative. Some alternatives have been dismissed from further analysis because they have been determined to be infeasible or because the agencies consider them to be environmentally inferior to other alternatives under consideration. The EIS will include a brief discussion of the reasons for eliminating certain alternatives from detailed analysis.

SEA and the agencies will prepare a Draft EIS (DEIS) for the Proposed Action. The DEIS will address those environmental issues and concerns identified during the scoping process and detailed in the Scope of Study served November 26, 2001. It will also discuss a reasonable range of alternatives to the Proposed Action and recommend environmental mitigation measures.

In addition, the DEIS will also analyze the impacts of the additional traffic from the Proposed Action over those UP lines to which Applicants may acquire trackage rights pursuant to the UP/SP merger condition, namely the Glidden Subdivision and the GH&H line.[4]

The DEIS will be made available upon its completion for public review and comment. A Final EIS (FEIS) will then be prepared reflecting the agencies' further analysis and the comments on the DEIS. In reaching their future decisions on this case, the Board and the cooperating agencies will take into account the full environmental record, including the DEIS, the FEIS, and all public and agency comments received.

[2] *See Union Pacific/Southern Pacific Merger,* 1 S.T.B. 233 (1996).

[3] The Applicants are a partnership comprising BNSF, BayRail, LLC (wholly owned by BNSF), and affiliates of four plastics and chemical production companies located in the Bayport Loop. The four production companies are ATOFINA Petro-Chemicals, Inc., Basell USA, Inc., Equistar Chemicals, LP, and Lyondell Chemical Company.

[4] In order to determine the potential impacts over the trackage rights lines, SEA must establish the current UP traffic levels. Because UP is not a participant in this proceeding, and is therefore beyond the scope of the Board's jurisdiction here, SEA will use the best available information to characterize existing conditions on those two lines. Similarly, in analyzing the No-Action Alternative, SEA will use the best available information to characterize existing conditions on the rail lines that UP currently uses to serve the Bayport Loop and analyze the potential impacts associated with the decrease in rail traffic on those lines as a result of the Proposed Action.

Proposed Action and Alternatives

Based on analysis conducted to date and comments received during the scoping process, the agencies have determined the reasonable and feasible alternatives that will be analyzed in detail in the EIS.[5] To assist with the visualization of the Proposed Action and Alternatives, please refer to the map below.

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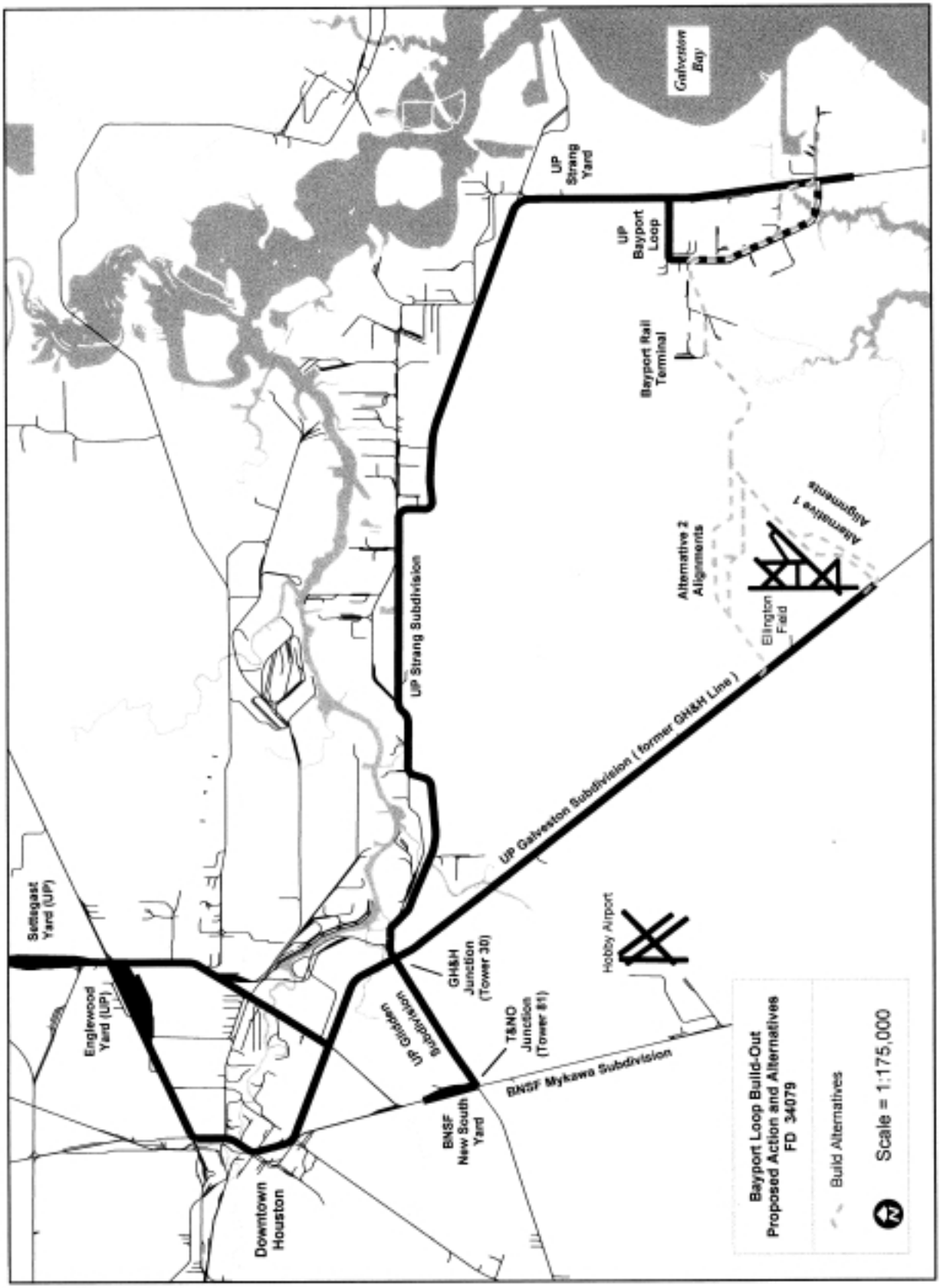
[5] Many commenters have urged the Board to require BNSF to provide competing service to the shippers in the Bayport Loop via trackage rights over existing UP rail lines. However, the UP/SP merger decision directs UP and BNSF to negotiate terms for build-in/build-out arrangements; it does not direct the parties to negotiate trackage rights over UP's lines in the state Highway 225 and 146 corridors. The Board's policy is to encourage private-sector dispute resolution whenever possible and BNSF and UP have had exchanges regarding Bayport access. If they should reach an agreement granting BNSF access to the Bayport Loop over UP's line, BNSF would likely move to dismiss its petition to construct and operate a new rail line to the Bayport Loop. Until that happens, however, the Board is obligated to consider BNSF's petition in this proceeding.



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A. Proposed Action and Modifications

(1) The Proposed Action consists of construction of a new rail line along Alignment 1 to the Bayport Loop and operations from BNSF's New South Yard over UP's Glidden Subdivision and UP's GH&H line. Alignment 1, the Applicants' preferred route, has been modified to include Alignment 1B, which crosses Taylor Bayou parallel to the Port Road and UP crossings. A spur would follow part of the original Alignment 1 route to serve potential shippers in the Bayport Loop. The Applicants developed Alignment 1B because of concerns expressed by the National Marine Fisheries Service over an area of Essential Fish Habitat associated with the original proposed crossing of Taylor Bayou. BNSF would operate on average one train each way per day comprising 36 to 66 railcars, totaling 13,000 to 24,000 loaded railcars per year. The majority of the railcars would contain plastic pellets. Approximately 1,500 to 7,000 tank cars each year would contain hazardous materials or other miscellaneous inbound and outbound commodities.

(2) The original Taylor Bayou crossing was part of Alignment 1 as originally proposed by the Applicants. This alignment would run east across Bay Area Boulevard, turn south, cross Taylor Bayou, and turn east along Port Road.

(3) Alignment 1C is a modification to Alignment 1 that would connect with the GH&H line just south of where Alignment 1 would connect. It parallels Alignment 1 to the south-east corner of the Ellington Field fence line. It continues north-east towards the Boeing and NASA facilities on Space Center Boulevard and turns north-west to rejoin Alignment 1 before it crosses NASA's access road to Ellington Field.

B. Alignment 2 Modifications

Alignment 2 was developed by the Applicants as an alternative to the Proposed Action. The original Alignment 2 would have begun construction from the GH&H on the north side of the Sam Houston Parkway (Beltway 8) and run under Beltway 8. The route then would have run parallel to the east side of Beltway 8 to Genoa-Red Bluff Road. It would have then run east alongside Genoa-Red Bluff Road, passing to the north of Ellington Field and the Baywood Country Club. It would have continued east across Red Bluff road to join Alignment 1 into the Bayport Loop. SEA dismissed the original Alignment 2 from detailed analysis for reasons that are discussed below.

(1) Alignment 2B, which now replaces Alignment 2, is a modification of Alignment 2 that would diverge from Alignment 2 by turning south before reaching the City of Houston's Southeast Water Treatment Plant. Alignment 2B then turns east across the grounds of the Water Treatment Plant and passes to the south of the existing Water Treatment Plant. It continues east, crossing Space Center Boulevard over a proposed grade separation and joins Alignment 1.

(2) Alignment 2C is a modification to the original Alignment 2. It would follow the original Alignment 2 and turn south from Genoa-Red Buff Road on the east side of the Water Treatment Plant. It would then turn east again and connect with Alignment 1.

(3) Alignment 2D is a modification to the original Alignment 2 and would turn east before reaching Genoa-Red Bluff Road. It would turn south before reaching the Water Treatment Plant, turn east across the Plant grounds, and connect to Alignment 1.

C. BNSF Trackage Rights Over UP Lines in the SH 225 and SH 146 Corridors

In addition to analyzing the reasonable and feasible alternatives described above, consistent with the requirement in the NEPA implementing regulations to consider alternatives outside the jurisdiction of the lead agency, the EIS will consider BNSF's use of trackage rights over UP's lines in the State Highway (SH) 225 and SH 146 corridors to reach the Bayport Loop. This alternative would involve operating from New South Yard over the Glidden Subdivision and continuing over UP's lines in the SH 225 and SH 146 Corridors. Notwithstanding the unforeseeable likelihood of this event, as discussed earlier, SEA believes that it is necessary to analyze this alternative in the EIS partly for comparative purposes relative to the No-Action Alternative and the Proposed Action, and partly because of the possibility of a negotiated agreement between BNSF and UP regarding use of the track.

D. The No-Action Alternative

Under the No-Action Alternative, the Applicants would not build and operate the new rail line into the Bayport Loop and there would be no change in current operations. UP would continue to serve the petro-chemical plants in the Bayport Loop. The No-Action Alternative consists of the existing situation where UP transports rail cars to and from the Bayport Loop over its lines heading north out of the Loop alongside SH 146, past Strang Yard, then west on its Strang Subdivision alongside SH 225, and on to either Englewood Yard or Settegast Yard. In analyzing the No-Action Alternative, SEA will use the best available information to characterize existing conditions on the rail lines that UP currently uses to serve the Bayport Loop and analyze the potential impacts associated with the decrease in rail traffic on those lines as a result of the Proposed Action.

E. Alternatives Excluded From Detailed Analysis

During the scoping process, the agencies determined that the alternatives discussed below are not reasonable and/or feasible and, therefore, do not warrant detailed consideration in the EIS. The EIS will, however, further describe the reasons for eliminating them from detailed consideration.

(1) The construction and operation of the Proposed Action along Alignments 1A, 2, and 2A. The Applicants believe that these alternatives are not feasible because the construction of a single grade separation for Genoa-Red Bluff Road and Red Bluff Road is economically infeasible and would conflict with the City of Pasadena's plans to accommodate growth in traffic by extending Genoa-Red Bluff Road to the north/northeast to connect with Fairmont Parkway.

(2) The construction and operation of the Proposed Action along Alignments 3 and 4. Although initially included in the Applicants' environmental background document, which accompanied the Applicants' petition to the Board,[6] Alignments 3 and 4 now appear to be infeasible because they would involve new construction off the existing Port Terminal Railroad Association (PTRA) tracks in the rail corridor along SH 225. As determined during this scoping process, the Applicants cannot use trackage rights over the PTRA to utilize Alignments 3 and 4 because of a legal agreement between UP and the Port of Houston Authority that prohibits BNSF from using the PTRA tracks to provide service to the Bayport Loop.

(3) The construction and operation of the Proposed Action along a new alignment in the SH 225 and SH 146 corridors to reach Alignment 3 or 4. This construction alternative, which is not shown on the map, would involve operating from New South Yard over the Glidden Subdivision and appears to have several engineering challenges, and could have environmental and safety concerns that are more substantial

[6] This document is available in the Board's public record.

than the alternatives that are already under consideration.[7]

(4) The construction and operation of the Proposed Action using a new Beltway 8—Fairmont Avenue Alignment. This alignment would follow the original Alignment 2, continue north across Genoa-Red Bluff Road, run east along Fairmont Parkway, and run south on Red Bluff Road until it reaches one of the other alignments. This alignment may require taking a number of businesses and would adversely affect the entrances and exits for a large shopping center, adversely affect turning movements across Fairmont Parkway, and may have adverse noise effects to sensitive receptors.

(5) Suggestions that negotiations between Bayport Loop shippers and UP for lower shipping rates, in an effort to obviate the need for the Proposed Action, do not meet the purpose and need of providing alternative rail service. Negotiations between the Bayport Loop shippers and UP already occur on a regular basis as contracts come up for renewal.

Independent Utility

Scoping comments suggested that the proposed Bayport Channel Container/Cruise Terminal (Bayport Terminal) and the Proposed Action are connected and requested that an EIS be prepared jointly for the two projects. However, based on the Applicant's Verified Statement, SEA's consultation with U.S. Army Corps of Engineers (USACE), which prepared the Draft EIS for the Bayport Terminal, and SEA's consultation with Port of Houston Authority, the two projects are not connected. Rather, the two projects are separate and distinct. They do not depend on each other economically or physically and each would proceed in the absence of the other. This issue will be discussed in more detail in the EIS.

Reasonably Foreseeable Actions

Under CEQ's guidelines, the analysis of environmental effects resulting from a Proposed Action requires the separation of actions and effects that are reasonably foreseeable as opposed to results that are remote and speculative. Typically, SEA analyzes potential rail operations for a period of three to five years into the future. Projections for rail operations beyond these time frames are not reasonably foreseeable. Beyond three to five years, for example, fluctuations in the economy, changes in contracts between shippers and railroads, railroad mergers, chemical company mergers, expansions or shifts in production among chemical plants, and changes in technology become speculative. The time frame for the analysis of potential effects will vary by impact area depending on the availability of information and SEA's ability to reasonably foresee potential impacts.

Public Participation

On October 1, 2001, SEA served and distributed the Notice of Intent to Prepare an EIS to approximately 489 citizens, elected officials, Federal, state, and local agencies, and interested organizations and initiated a toll-free project hotline 1–888–229–7857. On November 26, 2001, SEA served and distributed the Notice of Availability of Draft Scope of Study for the EIS, Notice of Scoping Meetings, and Request for Comments to approximately 526 citizens, elected officials, Federal, state, and local agencies, and interested organizations. The distribution covered the communities surrounding the Proposed Action and the communities along the UP mainlines connecting the Proposed Action to New South Yard. SEA placed notices of the scoping meetings in several community newspapers and the Houston Chronicle. SEA also provided public service announcements to several Spanish-speaking radio stations.

The scoping meetings were held in the afternoons and evenings on January 14 and 15, 2002, at the Pasadena Convention Center. SEA used a workshop format to allow attendees to provide comments to and ask questions of SEA and SEA's third-party independent contractor, ICF Consulting. The 189 people who attended the scoping meetings included citizens, organizations, elected officials, and officials from state and local agencies. Attendees submitted 21 comment sheets during the meetings and 20 attendees provided oral comments to a court reporter. At the close of the scoping period, on February 1, 2002, SEA received an additional 698 scoping comment forms, form letters, and letters raising environmental issues. At that time, SEA had received 14 calls to the toll-free hotline. Thirteen of these callers asked for information and one provided comments.

At the request of a number of commenters and several elected officials, SEA extended the comment period for an additional 30 days to March 14, 2002, to provide the public sufficient opportunity to explore alternatives to the proposed route and raise issues pertinent to scoping. SEA published the notice to extend the comment period in the **Federal Register** on February 13, 2002, and distributed it to 650 citizens, elected officials, Federal, state, and local agencies, and interested organizations. During that time, SEA conducted additional public involvement activities for the communities along that portion of the UP mainline that the Applicants would use as part of this proposal. Also, project information was translated into Spanish and made available to communities and community leaders who live along the Glidden Subdivision and the GH&H line and invited comments and questions in Spanish to the toll-free hotline. SEA distributed several hundred of these documents in Spanish to numerous community groups. At the end of the extended scoping period, SEA had received 198 additional comment forms, form letters, and letters, as well as 21 calls to the toll-free hotline. Six of these callers asked for information and 15 provided comments.

As part of the environmental review process to date, SEA has conducted broad public outreach activities to inform the public about the Proposed Action and to facilitate public participation. SEA has and will continue to consult with Federal, state, and local agencies, affected communities, and all interested parties to gather and disseminate information about the proposal.

Response to Comments

SEA and the cooperating agencies reviewed and considered the approximately 800 comments in preparation of this Final Scope of the EIS. The Final Scope adopts the Draft Scope and reflects any changes to the Draft Scope as a result of comments. The discussion below summarizes and addresses the principal environmental concerns raised by the comments, and presents additional discussion to further clarify the Final Scope.

A. Rail Operations Safety

General Comments on Infrastructure and Operational Conditions

Comments stated that to operate additional trains safely over the GH&H line its infrastructure should be improved through significant

[7] More specifically, construction of a new rail line in this corridor might also require the relocation of several miles of pipeline and existing UP tracks in order to create enough space along the existing right-of-way for a new line. The existing rail lines pass through land that is developed with residential, commercial, and industrial uses. Construction of a new rail line in this corridor could bring rail operations closer to homes than any of the other alternatives and might require the taking of homes.

investments. In addition, comments stated that the Board should study these potential investments through the EIS and require them as mitigation. Other comments suggested that the line should be upgraded to welded rail between Graham Siding and Tower 30, and new rail and bridge construction should be done near Sims Bayou/Berry Creek. Also, the applicants should implement crossing improvements and signal installation for rail and non-rail traffic to address the increased hazardous material traffic.

Response. The EIS will include a description of the existing rail operations safety conditions on the lines that the Proposed Action and Alternatives would affect (i.e., those lines over which the Applicants are seeking trackage rights). The existing conditions will be used as the baseline from which to analyze the impacts of the Proposed Action. The EIS also will describe the FRA's regulatory framework for rail safety.

Comments on Risks of Increased Rail Traffic

Comments stated that safety risk will increase because of the increased train traffic and the EIS should undertake a full risk assessment for train accidents and derailments during loading of tank cars and during switching activities in yard facilities. In addition, comments also indicated that SEA should conduct a risk assessment that includes consideration of derailments, collisions, hazmat releases, and human injuries associated with loading, switching, yard activities, grade crossings, and operation associated with the Proposed Action and Alternatives. Comments stated that BNSF has a poor safety record with a total of 485 train accidents in 2001 and a history of chemical spills. Comments asked whether, in the case of a derailment, BNSF would be held responsible for the damages in the area. Other comments stated that the new rail line would be a vast improvement over the present rail line because it would be safe, continuous rail on a modern roadbed. In addition, comments stated that the line would be safest if it is maintained and inspected regularly and suggested that the Board ensure that this happens.

Response. The EIS will analyze the probabilities of derailments and collisions in order to determine the risk associated with transporting hazardous material. The EIS will also include an analysis of highway-rail at-grade crossing accidents. The analysis will focus primarily on the historical, statistical BNSF and UP accident/derailment rate involving trains carrying hazardous material, releases of hazardous material and the number of instances of evacuations from hazardous materials releases resulting from train accidents/derailments. The EIS will describe BNSF's overall safety record as well as the records of the other major U.S. railroads.

Comments on Derailments

Comments expressed concern over potential rail car derailments. In addition, comments asked what the chances are of derailment for trains traveling straight compared to those making turns, because the new rail line makes several turns. Comments expressed concern over the two sharp curves in build-out Alignment 1C. Comments stated that BNSF has had three derailments since October 2001. Furthermore, comments expressed concern over the speed the trains would be operating and contended that if they operate over 20 miles per hour (mph) they could derail.

Response. The EIS will include an analysis of the Proposed Action in light of the FRA track safety standards and proposed operating speeds. The FRA track safety standards contain requirements for tangent (straight) and curved track and once the railroads set the train speeds at which they wish to operate, they must maintain the track according to the FRA standards. Curved track must meet additional geometry requirements, as compared to tangent track, in order to be in compliance with the FRA standards.

B. Rail Operations

Comments of the Condition of Existing Infrastructure

Comments focused on the condition of the existing rail infrastructure around Houston, stating that it is currently inadequate. Comments expressed concern over the addition of trains and rail cars to what the comments characterized as an already congested and poorly maintained rail network. Specific comments described the condition of the GH&H line, the UP Glidden Subdivision, and T&NO junction as unacceptable. Comments stated that the railroads should continue their investment in infrastructure. Comments stated that BNSF has not included infrastructure improvements as part of its application and contests the need for such improvements. Comments suggested that moving rail traffic off the existing lines along SH 146 and SH 225 might drain the capital necessary to maintain those lines at the same time as increasing rail traffic problems elsewhere in Houston. Comments stated that SEA should study the condition of the existing infrastructure and its traffic levels in the DEIS. Comments requested the Board to study infrastructure investment in the DEIS and require this investment as part of mitigation.

Response. In response to concerns raised over the Proposed Action, the EIS will include an analysis of rail operations associated with the Proposed Action and Alternatives, which involves two trains per day, on average, including impacts over UP's main line. The EIS will consider the existing rail operations and the condition of the infrastructure that the Proposed Action and Alternatives would affect and will use this information as a baseline in its analysis of impacts. The EIS will consider mitigation measures as appropriate. The EIS also will discuss the FRA's regulatory framework for minimum safety standards for track infrastructure.

Comments Concerning the GH&H Line

Comments expressed concern about the condition of the GH&H line and what one comment called ''its unacceptable safety and traffic problems.'' Comments also mentioned the severity of safety and traffic problems near three schools that directly border the line and fifteen schools that are located within one mile of the GH&H line and attributed some of these problems to the lack of incentive to upgrade a lightly used track. Comments suggested that the 150-year-old line needs to be repaired and that the GH&H tracks are too old to bear any additional traffic. Comments suggested that the Board require that the track be replaced with continuous welded rail and that all bridges, grade crossings, and switches be brought up to the best available standards. Other comments stated that the GH&H line has presented no problems for about 150 years.

Response. The EIS will analyze the rail operations impacts of the Proposed Action and Alternatives on the UP's GH&H line. The analysis will account for the existing condition of the line and the current rail traffic levels. For example, SEA's initial fieldwork found four to five UP trains per day operating on the GH&H line based on four days of train counts and nine trains per day during a fifth day of train counts. The EIS will include a description of safety conditions on the GH&H.

Comments on Rail Congestion

Comments stated that there is chronic rail congestion on the East Belt line and in the vicinity of New South Yard that impairs the mobility of residents and

creates a safety problem. Comments highlighted the trains backing into New South Yard as a particular source of hardship for residents and suggested that this practice be eliminated. Comments stated that the Federal requirement that trains not block crossings for more than ten minutes without cause is not being enforced. Comments suggested that SH 225 already exists as a dedicated container and chemical traffic corridor and that re-routing traffic away from this corridor would create traffic problems on other lines, including the GH&H line, Glidden Subdivision, and former Houston Belt & Terminal Railway lines. Comments called on SEA to give weight to the benefits of this current dedicated corridor.

Response. The EIS will consider the existing rail operations in the project area and the potential effects from the Proposed Action and Alternatives, including a discussion of nearby UP, BNSF, and PTRA rail line operations on the East Belt, Double Track Junction, T&NO Junction, and switching operations in both New South Yard and Old South Yard.

Comments About Daily Train Traffic

Comments requested that SEA study existing train traffic levels on the lines that the Proposed Action would affect, in order to provide a baseline rail traffic model. Comments also suggested studying the traffic and mapping grade crossings on lines that the Proposed Action and Alternatives would directly and indirectly affect. Comments requested that SEA determine how existing rail traffic would interact with the new traffic, as well as traffic identified in the Bayport Terminal and Texas City/Shoal Point container facility DEIS. Comments questioned the proposed use of welded track, which could allow speeds of up to 60 mph, when the Applicants have stated that the speed limit would be 20 mph. Other comments asked how the proposed 20 mph speed limit would be controlled and enforced.

Response. The EIS will consider the existing rail operations in the project area and the potential effects from the Proposed Action and Alternatives. For example, as discussed earlier, the EIS will include the results of SEA's field work which sampled the numbers of trains and rail cars operating on the applicable lines in order to better determine the daily number of trains for each of the lines in the project area. The EIS will also consider the interaction of the new trains with existing rail traffic and will describe the enforcement of speed limits.

Comments on the Bayport Rail Terminal

Comments questioned the expansion at the Bayport Rail Terminal that is currently taking place, which will roughly triple its capacity. Comments suggested that SEA note this in the DEIS.

Response. The EIS will consider the expansion of the Bayport Rail Terminal and any relationship with the Proposed Action and Alternatives.

C. Hazardous Materials Transportation Safety

General Comments on Assessment of Existing Conditions

Comments expressed general concern about whether the EIS would adequately assess the existing conditions relevant to hazardous materials transportation safety in the area potentially affected by the Proposed Action and Alternatives, particularly with respect to the extent of the area subject to analysis, the population potentially affected in the event of a release, the existing land uses in the area (e.g., proximity to homes, schools, airport, assisted living facilities), and the existing emergency management services. Comments mentioned that the U.S. Department of Transportation extensively regulates the transportation of hazardous materials, including by rail. Comments also indicated that the Applicants subscribe to a Responsible Care® initiative that responds to public concerns about the manufacture, distribution, and use of chemicals.[8]

Response. The EIS will describe the existing conditions in the project area. The EIS will also describe the existing emergency management services, including voluntary initiatives implemented by industry in coordination with local authorities. The EIS will include a description of regulations applicable to the transportation of hazardous materials via rail and related emergency response requirements. As part of the assessment of potential impacts associated with hazardous materials transportation, the EIS is considering the population located within the area of influence of the Proposed Action and Alternatives that potentially could be affected in the event of a release.

[8] Responsible Care® is an initiative sponsored by the American Chemistry Council which, among other activities, works with manufacturers, customers, carriers, suppliers, and distributors to foster the safe use, transport, and disposal of chemicals.

Comments on Potential Impacts Associated with Hazardous Materials Transportation

Comments expressed concern regarding the nature and amount of chemicals that the Applicants would transport, as well as the potential impacts of spills and releases on the surrounding human and natural environment. Comments indicated the need for a risk assessment and evacuation plans pertaining to the proposed rail line. Comments mentioned the risks related to accidents, including derailments and collisions. Other comments expressed concern regarding the safety statistics of existing transport by chemical companies and railroads.

Response. The EIS will assess potential impacts associated with hazardous materials transportation based on an analysis of the probability of a release of hazardous materials and on an assessment of potential consequences in the event of such a release. The analysis of the probability of a release of hazardous materials will consider the safety statistics from the FRA for railroad companies operating in the project area. The assessment of potential consequences will consider the types of chemicals transported over the Proposed Action and Alternatives, as well as the population located along the main lines and around the rail yards that potentially could be affected in the event of a release. Both the analysis of the probability of a release and the assessment of potential consequences will consider existing conditions under the No-Action Alternative, as well as reasonably expected potential conditions if the Proposed Action should be approved and implemented.

Comments Specific to Terrorism

Comments expressed concern about potential terrorist acts that may involve hazardous materials transportation and may target critical infrastructure in the area potentially affected by the Proposed Action.

Response. Consistent with prior cases before the Board, safety will be a paramount concern in the environmental review process in this proceeding.

The EIS will consider the probability of a release of hazardous materials during transportation using historic accident statistics, regardless of the cause of the release. The EIS will also consider the potential consequences of releases to human health and the environment.

The EIS will also describe the existing regulations and policies governing the

transportation of hazardous materials and the latest developments in those regulations and policies, such as the new rules proposed on May 2, 2002, by the Department of Transportation's Research and Special Programs Administration (RSPA), which would require shippers of certain hazardous materials to develop or update security plans and provide appropriate training. During the course of the environmental review process here, SEA will keep abreast of any policies or recommendations that RSPA and the FRA may develop and that may be applicable to this proceeding, and will provide information on any developments in the Draft and Final EIS, if appropriate.[9]

The EIS will also recognize the procedures now in place in Houston, and in the Bayport Loop area in particular, to handle hazardous materials transport safely. Houston and the Bayport Loop have one of the largest concentrations of chemical facilities in the country. As a result, Houston has in place significant specialized emergency management capabilities to address both accidental and intentional events that may occur in the process of handing and transporting chemicals and hazardous materials.

The security issues relating to potential terrorist acts in the area potentially affected by the Proposed Action do not appear to be separate and distinct from the security issues facing the railroad industry generally. As noted above, these issues are currently being examined for the industry as a whole by RSPA. The EIS will examine the procedures that railroads must comply with regarding transportation safety, security, and the handling of hazardous materials on all their lines.

D. Pipeline Safety

General Comments

Comments expressed concern about the proximity of the proposed rail line to existing pipelines, noting that in many places the proposed alignment would cross directly over or run beside existing pipelines. Comments recommended that SEA perform a risk assessment that includes consideration of pipeline safety factors at rail/pipeline crossings. In particular, comments expressed concern that cleanup (e.g., excavation of soil) of a spill from a railcar near a pipeline that transports flammable or otherwise hazardous chemicals could cause a pipeline rupture and/or explosion, as had occurred in the recent past. Comments also expressed concern about possible pipeline rupture during construction of the proposed line and inquired whether existing regulations prohibit construction of rail lines in close proximity to pipelines. Comments inquired whether any chemical incompatibilities were expected to exist between the contents of a particular pipeline and the contents of a rail car passing in close proximity.

Response. The EIS will consider pipeline safety factors at rail/pipeline crossings and where a rail alignment runs beside existing pipelines. The EIS will examine the likelihood of a hazardous materials release due to construction and operation of the Proposed Action and Alternatives near pipelines and the potential impacts from a hazardous material release.

Comments on Communication in the Event of an Accident

Comments requested that the scope of the EIS be expanded to include an examination of whether communication between the railroad, the pipeline companies, and area residents would be sufficient in the event of an accident.

Response. The EIS will describe emergency preparedness requirements and plans for the Proposed Action and Alternatives, including provisions for communications in the event of an accident.

E. Transportation

Grade Crossing Safety

Comments expressed concern over vehicle and pedestrian accidents, including accidents involving people with disabilities at grade crossings. Comments mentioned that four at-grade crossing accidents occurred at T&NO junction (immediately south of New South Yard) within a ten-month period from January to October 2001. In addition, comments expressed concern over the grade crossing safety risks associated with travel to and from schools. Comments stated that the Proposed Action and Alternatives would double safety risks and requested that BNSF undertake a series of crossing improvements and signal installations for rail and non-rail traffic. Other comments requested that all major roads be grade separated. In addition, comments requested a rail overpass and overwalk at Howard Drive to protect the safety of children and their pets. Comments stated that too many accidents occur at Old Galveston Road and Howard Drive.

Response. The EIS will analyze potential safety impacts at grade crossings. The EIS will address mitigation measures as appropriate and will discuss the Federal Railroad Administration (FRA) and the Federal Highway Administration (FHWA) regulations governing grade crossing safety, which are delegated to the State of Texas. The EIS will also reflect consultations with and recommendations by the Texas Department of Transportation regarding grade crossing safety.

Grade Crossing Delay

Comments expressed concern over a potential increase in vehicle traffic congestion throughout east and southeast Houston due to additional train traffic from the Proposed Action. In addition, comments requested that the delay analysis not be limited to existing grade crossings but should include future crossings such as Space Center Boulevard, Red Bluff Road, Bay Area Boulevard, Port Road, and SH 146. Comments expressed concern over traffic blockage due to the lack of planned grade separated crossings. Other comments expressed concern over the congestion at New South Yard resulting in main road blockages. Comments expressed concern over trains blocking access to their communities (e.g., Old Galveston Road). Comments also mentioned traffic delays around schools. Comments stated that the Texas Transportation Code 471.007, which does not allow trains to block crossings for more then 10 minutes, is violated daily by existing trains. To address this problem, the comments requested that the Board ensure that an enforceable plan to prevent rail traffic problems and their associated safety risks accompany the application. Comments requested that BNSF not store cargo or park trains in such a way that they would block streets, other tracks, or crossings. Comments stated that the grade crossing delay problem could be mitigated through an enforceable commitment to off-peak hour operations. Other comments stated that the Board should see that traffic problems in east and southeast Houston are solved regardless of exemption approval in this proceeding.

Response. The EIS will analyze the potential effect that the Proposed Action and Alternatives might have on delay at

[9] While the Board is directed to promote a safe rail transportation system in discharging its duties involving rail construction and other matters that require action by the Board, FRA has primary authority to ensure railroad safety under the Federal Rail Safety Act (FRSA), 49 U.S.C. 20101 *et seq.* Railroads are legally bound to comply with the comprehensive across-the-board safety measures adopted under FRSA on all of their lines, regardless of any specific mitigation that the Board may impose in any case-specific environmental review of individual proposals that may require Board approval.

existing grade crossings, as well as at new grade crossings.

Emergency Response

Comments expressed concern over potential delays to emergency vehicles and blockages of emergency evacuation routes. Comments requested that the EIS include maps of primary emergency management systems, fire, and public safety access routes that the proposed alignments would block. Comments also expressed concern over the delays that would occur at Space Center Boulevard, which is being extended and could be used as an evacuation route. Comments stated that the community of Shoreacres contracts its emergency medical services from Clear Lake and would be directly affected by the Proposed Action and Alternatives. Comments requested that the EIS examine the frequency of road blockages from BNSF and UP trains.

Response. The EIS will analyze the potential impacts of the Proposed Action and Alternatives on emergency response vehicles and evacuation routes due to blocked crossings associated with the train traffic of the Proposed Action.

Other Transportation Projects

Comments requested that the EIS coordinate with other studies such as the HGAC 2025 Metropolitan Transportation Plan (MTP), the SH 146 Major Investment Study, the Texas City Shoal Point DEIS and the Bayport Terminal DEIS. Comments also expressed the need for the EIS to consider the potential transportation impacts of these projects along with the Proposed Action.

Response. The EIS will analyze the Proposed Action and Alternatives in the context of other reasonably foreseeable projects in the area. The EIS will consider information on transportation improvements and road traffic predictions from all relevant studies.

F. Noise and Vibration

General Comments on Noise and Vibration

Comments expressed generalized concern about noise and vibration impacts that would result from the proposed rail operations and construction, including adverse effects on communities, schools, residences, property values, and overall quality of life along both the new and existing rail lines. Comments also expressed concern that rail line traffic would increase in the future, which would lead to more noise pollution. Additional comments expressed concern about the effects of noise and vibration on wildlife. Comments also stated that the Proposed Action would reduce noise impacts in comparison to trucks in the area.

Response. Typically, the Board analyzes noise impacts where there is an increase of at least eight trains per day on a rail line or an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) (see 49 CFR 1105.7e(6)). However, in response to concerns raised over the Proposed Action, the EIS will analyze the noise impacts of train operations associated with an increase of two trains per day, on average, over both the new line and trackage rights lines, and for construction of the project. The EIS noise analysis will include adverse noise effects on sensitive receptors such as residences and schools. The EIS will discuss operational and construction-induced vibration to address concerns raised by comments. Potential effects of noise and vibration on wildlife will be addressed under biological resources.

Comments on Evaluation of Noise Levels

Comments requested that the EIS discuss applicable noise regulations and standards and noise levels along all proposed alignments, including: (1) Absolute and incremental increase in noise levels, as well as appropriate absolute criteria (comments suggested EPA's goal of a Day-Night Equivalent Level, abbreviated as L_{dn} or DNL of 55 Hourly A-Weighted Sound Level (dBA) for residential areas) and, (2) short-term (instantaneous to one-hour) criteria. Instantaneous noise impact assessment was also requested, estimating noise levels for both day and night. Comments also stated that the EIS should analyze background noise, frequent noise that is louder than ambient noise, periodic noise, infrequent noise, and rare, but foreseeable noise. Comments also requested the evaluation of mitigation options.

Response. The Board's regulations at 49 CFR 1105.7 use an incremental increase in noise levels of three decibels L_{dn} or more, or an increase to a noise level of 65 L_{dn} or greater as noise impact analysis thresholds. Sixty-five L_{dn} is the standard employed by Federal agencies that regulate or evaluate noise impacts, including the EPA, FHWA, Federal Transit Administration (FTA), FRA, and FAA. The Board uses this standard in all of its environmental review analyses. Federal agencies consider noise levels above 65 L_{dn} as incompatible with residential land use. The EIS will discuss existing noise levels. For example, much of the project area is already at 65 L_{dn} or higher due to existing sources (e.g., existing rail traffic, Ellington Field). Regarding instantaneous noise impact assessment, the EIS will provide instantaneous noise levels from a range of sources to provide context (e.g., airplanes, trains, and cars), and mitigation measures as appropriate.

Comments on Long-term Sound Level Averages

Comments requested that long-term sound level averages (over an hour or more) be included in the analysis for construction activities, but not in analysis for operational activities, unless appropriate.

Response. The construction noise analysis in the EIS will consider both long (30-day average) and short-term (8 hour) sound levels. The operational analysis in the EIS will consider long-term sound levels.

Comments on Proposed Action and Alternative Alignments

Comments expressed concern over specific alignments for the Proposed Action and Alternatives. Comments specifically referred to Alignments 1, 1C, and 2B as unacceptable due to their proximity to the Northfork subdivision in Clear Lake City. Comments also suggested that Alignments 1, 1B, and 1C would have a negative impact on the community because of noise. Comments suggested that the two sharp curves proposed in Alignment 1C would cause increased noise when the trains turn and the joints move between the cars. Comments suggested that the DEIS evaluate noise impacts for existing and reasonably foreseeable future land use. More specifically, comments expressed concern over potential noise and vibration impacts to NASA's Sonny Carter Training Facility. Comments also expressed concern over the increased noise impacts that a new rail line would introduce, in addition to the noise from existing operations at Ellington Field, near-by industrial plants, and existing rail traffic along SH 3. Comments also stated that the new rail line would have an insignificant impact on noise in comparison to existing operations at Ellington Field.

Response. The noise analysis in the EIS will include noise contours for rail operations over each new construction alignment evaluated and noise contours for associated rail operations over the existing mainlines, including the No-Action Alternative, to disclose areas where the Proposed Action would cause noise effects. The EIS will address the potential for wheel squeal noise. The EIS will determine whether the Proposed Action would cause any noise and vibration effects to NASA's Sonny Carter Training Facility.

Comments on Vibration Impacts

Comments expressed generalized concern over the potential effects that vibration resulting from construction and operation activities of the Proposed Action may have on schools, homes, structures, and/or roads. In addition, comments expressed concern over potential vibration impacts to NASA's Sonny Carter Training Facility. Comments also requested that the EIS analyze and quantify such impacts.

Response. The EIS will discuss operational and construction-induced vibration. The EIS will also evaluate vibration impacts on the basis of maximum vibration level. Because maximum vibration levels would be essentially unchanged for areas where rail traffic currently exists, the EIS discussion of potential vibration impacts is expected to focus on areas where new rail construction would occur.

G. Climate and Air Quality

General Comments on Air Quality

Comments expressed general concerns about air pollution, including diesel emissions, and associated adverse health effects resulting from construction and operation of the Proposed Action and from potential releases should a chemical spill occur. Comments also stated that Federal highway funds might be lost as the result of increasing air pollution. Further, comments expressed concern over current Clean Air Act (CAA) conformity compliance issues and the additional air quality impacts that construction and operation of the Proposed Action would have on the Houston-Galveston non-attainment area. In addition, comments requested that SEA consider all criteria pollutants in the air quality analysis. Comments requested dispersion modeling and analysis of the air quality impacts on a local, rather than a county-wide, level. Comments expressed concern that the Proposed Action would increase air pollution by encouraging expansion of the petro-chemical plants in Houston. Comments stressed that census data and risk factors should be used to determine which populations would likely experience health effects from exposure to air emissions. Finally, comments requested estimates of emission rates and use of dispersion modeling of carbon monoxide from locomotive diesel engines to determine the impacts on breathing air intakes at NASA's Sonny Carter Training Facility.

Response: The Board typically analyzes air impacts where there is an increase of at least eight trains per day, an increase in rail traffic of at least 100 percent (measured in gross ton miles annually), or an increase in rail yard activity of at least 100 percent (measured by carload activity). When a Proposed Action affects a non-attainment area, as defined by the CAA, as is the case here, the Board typically analyzes air impacts if there is an increase of at least three trains per day, an increase in rail traffic of at least 50 percent, or an increase in rail yard activity of at least 20 percent. The Proposed Action anticipates two trains per day, and would therefore not trigger any environmental thresholds requiring air quality impacts analysis. However, in response to concerns raised over potential impacts to air quality from the Proposed Action, the EIS will include analysis of air impacts of train operations.

The EIS will also examine the additional emissions from both the construction and operational phases of the Proposed Action and Alternatives, including rail-related emissions and potential air emission increases due to increased vehicle delays at highway/rail at-grade crossings. The EIS analysis will include consideration of criteria pollutants, with emphasis on those most relevant to the Houston non-attainment situation (*e.g.,* NO_X and PM_{10}). If additional emissions associated with two train trips per day are found to be large enough to cause exceedances of criteria pollutant standards, then the EIS will include consideration of these impacts. Further, the EIS will determine whether carbon monoxide concentrations would have an adverse affect on the breathing air intakes at NASA's training facility. The EIS will evaluate releases, including air emissions, resulting from spills in the context of the hazardous materials transport safety analysis.

Comments on Particulate Matter

Comments expressed general concern over small particle pollutant emissions resulting from the Proposed Action. Comments stated that the air quality analysis should examine levels of fine particulate matter ($PM_{2.5}$) associated with construction and operation of the Proposed Action and provide figures showing the impacts on air quality specifically for the area that includes the Proposed Action. Comments indicated that exhaust from diesel sources is a major source of $PM_{2.5}$ air pollution, as well as other fine particle emissions, that may be hazardous and lead to adverse health effects. Comments stated that the EIS should analyze the background level of $PM_{2.5}$ air pollution for the Proposed Action and Alternatives, determine the sources of fine particle emissions, and examine the potential health effects resulting from increased exposure to such pollutants.

Response. Typically, the Board would not analyze potential air quality effects from fine particulate emissions ($PM_{2.5}$) in an EIS for a project such as this, with a projected low level of increased rail activity (two trains per day on average), the lack of an attainment or nonattainment designation for $PM_{2.5}$ in the Houston area pursuant to the CAA, and the absence of a State Implementation Plan (SIP) or emission threshold that would trigger requirements for fine PM. However, in response to concerns raised over the Proposed Action, the EIS will include examination of changes in diesel particulate emissions resulting from operation and construction of the Proposed Action and Alternatives.

Comments on Hazardous Air Pollutants

Comments expressed concern about hazardous air pollutant (HAP) emissions, especially diesel emissions, resulting from construction and operation of the Proposed Action. Comments requested that the EIS indicate background levels of HAPs, areas that will experience increased HAP levels as a result of the project, the total and incremental increase in HAP levels that these areas will experience, and the resulting health effects.

Response. The Board would not normally analyze HAP emissions in an EIS for a project such as this with projected low level of increased rail activity, and the absence of HAP emission regulations applicable to mobile sources in Texas. However, in response to concerns raised over the Proposed Action and recent concerns about possible adverse health impacts from diesel emissions, the EIS will include a diesel emissions screening analysis. The analysis will compare estimates of daily average diesel emissions from construction and operation of the Proposed Action and Alternatives with county total daily average emissions and with the total daily average existing train activity, local diesel truck activity and other potential sources of nearby diesel emissions (e.g., airport ground support equipment) for selected site locations (e.g., near residential areas) in the project area.

H. Water Resources

General Comments on Water Quality

Comments expressed general concern about the effects of a new rail line on

water resources, including contamination of the water supply, potential impacts on water quality, and the effects of hazardous materials on the high water table in the project area. Comments mentioned specific concern regarding possible adverse impacts on Armand Bayou or the Armand Bayou Nature Preserve. Comments also mentioned concern for other water bodies, including Mustang Bayou, Taylor Lake, Clear Lake, and Galveston Bay.

Response. The EIS will describe the existing surface water and groundwater resources within the project area, including lakes, rivers, bayous, streams, stock ponds, wetlands, and floodplains and the potential impacts on these resources resulting from construction and operation of the Proposed Action and Alternatives.

Comments Specific to Spills

Comments mentioned the effect that potential chemical spills could have on water quality and ecologically sensitive bayous and estuaries. Comments also mentioned the possibility of contamination of groundwater due to chemical spills, including leakage and runoff from operation and construction activities.

Response. The EIS will analyze the potential impact associated with a release of hazardous materials to surface water and groundwater.

Comments Specific to Floodplains

Comments mentioned possible impacts/changes to the floodplains, drainage, and flood control systems as a concern. Comments also requested that SEA consider the impacts from constructing a rail line that could potentially ''dam the city'' of Clear Lake and reduce the region to a 100-year flood plain. Comments requested that SEA include a storm surge analysis along the proposed route.

Response. The EIS will consider the existing surface water and groundwater resources within the project area, including floodplains and the potential impacts on floodplains resulting from construction and operation of the Proposed Action and Alternatives. The EIS also will consider the water quality issues associated with stormwater, including requirements of the National Pollutant Discharge Elimination System (NPDES) stormwater management program.

General Comments on Wetlands

Several comments expressed general concern for the negative environmental impacts on the wetlands surrounding Armand Bayou and other wetlands in the project area. Comments indicated concern for the possible impact to water quality from wetland filling and requested that the EIS disclose the amount of wetlands that will be filled for each alternative alignment. Other comments suggested that the Board include a Clean Water Act (CWA) Section 404(b)(1) analysis for wetlands that are proposed to be filled.

Response. As noted above, the EIS will include a discussion of the potential impacts to wetlands and water quality. The approximate acreage of impact is calculated for the Proposed Action and Alternatives. The EIS will provide the approximate area of impact to wetlands along each alignment. A wetlands analysis under CWA Section 404(b)(1) is part of a permitting process that involves the Applicant and the USACE. The EIS will include a discussion of the CWA Section 404 permitting process.

Comments Related to Isolated Wetlands

Comments discussed the ruling on isolated wetlands by the U.S. Supreme Court on January 9, 2001 in *Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers,* 531 U.S. 159, 121 S. Ct. 675 (2001) (SWANCC). Comments stated that no national guidance has yet been promulgated by the Environmental Protection Agency (EPA) and the USACE, and that there are many interpretations of this ruling nationwide. Comments also stated that they did not agree with the USACE Galveston District's interpretation of the Supreme Court decision that is described in the Bayport Terminal DEIS. Comments also indicated the view that SEA would likely defer to this interpretation but requested that SEA include the following analyses in the EIS: (1) Maps of jurisdictional and non-jurisdictional wetlands and field verification of the jurisdictional wetlands, (2) a map layer of proposed filled areas in the wetlands, (3) cross-section drawings of the Proposed Action with heights and widths, (4) a discussion of the USACE Galveston District's interpretation of jurisdictional wetlands, and (5) notification to TNRCC of the project during preparation of the DEIS. Comments recommended identifying all wetland areas within the project area and minimizing any adverse impacts to isolated wetlands to the same extend as jurisdictional wetlands.

Response. The EIS will include a discussion of the applicable regulatory programs at both the state and Federal level. The EIS also will characterize existing conditions and potential impacts to wetlands from the Proposed Action and Alternatives. The potential impacts to both wetlands subject to permitting by the USACE under CWA Section 404 (i.e., ''jurisdictional wetlands'') and non-jurisdictional wetlands (e.g., isolated wetlands) is included. The USACE Galveston District will make the jurisdictional determination regarding wetlands. The EIS will include the results of the determination, if available, for the Proposed Action and Alternatives.

Comments on Water-Related Permits

Comments stated that under the Harris County Stormwater Quality Regulations, a stormwater quality permit for construction activity might be required from Harris County. Further, comments indicated that the Flood Control Division of the Harris County Public Infrastructure Department would need to approve the construction drawings for work proposed in the Department's right-of-way. Comments also mentioned that approval might be required from the Engineering Division of the Harris County Public Infrastructure Department due to the impact of the proposed rail on existing drainage.

Comments noted the requirements of and the need to coordinate with the Galveston District of USACE. Comments expressed the need to determine potential jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 due to the crossing of Armand Bayou. Comments also suggested the need for permits from USACE for environmentally sensitive areas of Armand Bayou. Comments suggested consultation with USACE to determine if permitting issues under CWA Section 404 would be necessary for the regional stormwater detention basin and for the wetlands mitigation area in the Space Center Boulevard extension project east of Ellington Field.

Comments indicated that the proposed new rail line crosses Armand Bayou, Big Island Slough, and Taylor Bayou, and because these waterways are tidally influenced, they are considered navigable waterways of the U.S. and subject to USCG jurisdiction. These comments also included information to aid in the determination of bridge permits for the proposed rail lines.

Response. As part of the analysis of potential impacts on water resources, the EIS will consider the permits and regulations that would apply to the Proposed Action and Alternatives, such as permits pursuant to Sections 401 and 404 of the CWA.

Comments Related to Mitigation

Comments mentioned the possible disturbance of property that is managed

by Armand Bayou Nature Center (ABNC). The comments requested that the DEIS address potential impacts to this area and that ''an adequate and appropriate mitigation plan be developed that is congruent with ABNC's mission and purpose.''

Response. The EIS will characterize the existing conditions of ABNC, analyze potential effects, and address mitigation as appropriate.

I. Biological Resources

General Comments on Biological Resources

Comments mentioned concern about animals and plants in a general context, and requested a risk assessment of ''natural areas.'' Comments expressed concern about impacts to sensitive habitats associated with ecosystems and bayous in the project area. Comments expressed specific concern about the possible effects Alignment 1C would have on fish spawning areas around Mustang Bayou. Comments expressed concern about the threat of introduction of non-indigenous species along the alternative alignments. Comments expressed concern about potential impacts to coastal wetlands and coastal natural resource areas. Comments recommended that the alternative alignments follow existing rights-of-way, and also discussed the disturbance of wildlife and vegetation that can result from construction activities.

Response. The EIS will consider the existing plant and animal communities and aquatic resources within the project area and the potential impacts on biological and aquatic resources from construction and operation of the Proposed Action and Alternatives.

Comments on Taylor Bayou, Armand Bayou Nature Center, and Armand Bayou Coastal Preserve

Comments expressed general concern about negative impacts to the ABNC. Comments specifically mentioned concerns about the plants and animals surrounding ABNC. Comments indicated that Alternative 1 would affect the east bank of Taylor Bayou and would eliminate conservation management in that area. Comments also stated that alternative alignments adjacent to Taylor Bayou would affect inter-tidal marsh and upland to wet hardwood forest. Comments requested that the EIS address potential impacts and appropriate mitigation plans. Comments remarked that the proposed rail line would diminish the aesthetic value of the Armand Bayou Coastal Preserve and interfere with educational programs at the preserve and the nature center. Comments supported the use of an alternative route that avoids crossing the preserve.

Response. The EIS will consider the existing conditions along Taylor Bayou and Armand Bayou and evaluate potential impacts to the wetlands, plant and animal communities, scenic resources, and recreational uses. The EIS will address the impacts of the Proposed Action and Alternatives on these resources, including avoidance, minimization, and mitigation (where appropriate), depending on the potential effects identified in the EIS.

Comments on Hazardous Materials Damaging Biological Resources

Comments expressed concern over potential impacts to the ecosystem and biological resources in the event of a hazardous materials release and mentioned the negative effects a hazardous material spill would have on area wildlife or wildlife habitat. More specifically, comments expressed concern over impacts to wildlife and ''long-term productivity'' (vegetation) in the event of hazardous materials entering a water body, and the economic ramifications of such an event. Comments also expressed general concern about hazardous chemicals causing damage to an unspecified nature preserve and about the environmental damage to fish and wildlife that would result from a spill into Taylor and/or Armand Bayou. Comments also expressed concern about the impact of leakage and runoff from the alignment on the surrounding watershed and near-by bayous.

Response. The EIS will consider the likelihood of a hazardous materials release from construction and operation of the Proposed Action and Alternatives and the potential impacts to aquatic and biological resources from a hazardous material release.

Comments on Effects of Noise, Vibration, and Pollution on Biological Resources

Comments requested that the EIS analyze the effects of noise, vibration, and pollution from the project on area ecology. Comments also expressed concern about habitat loss resulting from the project, and questioned whether lands designated for this project would remain as undeveloped habitat if this project were not built. Comments requested that the EIS include a comparison of timelines for development due to this project versus development due to other reasons.

Response. The EIS will consider the existing terrestrial and aquatic resources within the project area and the potential impacts on these resources from construction and operation, including noise, vibration, and pollution, of the Proposed Action and Alternatives, including the No-Action Alternative. The EIS will use the best available information for reasonably foreseeable development to analyze any future changes in land use and the timeframe for those changes in the area affected by the Proposed Action and Alternatives relative to the No-Action Alternative.

Comments on Wildlife

Comments expressed general concerns about wildlife and wildlife habitat. Comments specifically mentioned deer, squirrels, rabbits, turtles, frogs, armadillos, owls, field mice, wild boar, bobcats, egrets, and alligators. Comments expressed concern that the construction of the proposed build-out may drive wild pigs into near-by neighborhoods or onto the railroad track. Comments also expressed concern for the safety of domestic as well as wild animals. Comments noted that the project area is a migration route for many bird species and requested that measures be taken to ensure that construction activities do not have any adverse impacts on migratory birds, in order to be in compliance with the Migratory Bird Treaty Act.

Response. The EIS will consider the existing avian and wildlife communities and wildlife habitat in the project area and the potential impacts of the Proposed Action and Alternatives on those resources.

Comments Specific to Mitigation

Comments requested that open space dedications be incorporated into the project plan as an opportunity to install wildlife corridors along Red Bluff Road and other areas. Comments also recommended minimizing the clearing of riparian vegetation as much as possible and mitigating for the appropriate habitat losses associated with the disturbed project area, by using site-specific native plant species. Comments requested that a monthly maintenance program be established for mowing grass along the right-of way.

Response. The EIS will consider the potential impact on biological resources, including the potential impact of habitat loss and disruption of wildlife corridors, and will include mitigation as appropriate, depending on the potential effects identified in the EIS.

Comments on Endangered, Threatened, and Rare Species

Comments expressed generalized concern over the presence of endangered and/or protected animal

and plant species in the area of the Proposed Action. Comments expressed concern about the presence of the Federally listed endangered species, the Texas prairie dawn-flower in the proposed project area and provided general information about the flower. Comments provided lists of Endangered and Threatened Species that may occur in Harris County and requested that the area affected by the proposed alignment be properly evaluated by trained biologists for the presence or absence of such species.

Response. The EIS will consider the existing plant and animal communities in the project area, the potential impact to those communities, and possible mitigation (where appropriate) depending on the potential effects identified in the EIS. At the request of the U.S. Fish & Wildlife Service, SEA conducted a survey for the Texas prairie dawn in the project area. The EIS will address the potential impacts to special status species, including the Texas prairie dawn.

J. Topography, Geology and Soils

General Comments on Geology and Soils

Comments expressed the need for the EIS to examine specific issues related to topography and geology, including consideration of subsidence, soil stability, wells and deep well injection sites, surface faults, and salt domes.

Response. The EIS will analyze the geology and soils found within the project area, including unique or problematic geologic formations or soils and prime farmland and hydric soils and the potential impacts on these resources resulting from the construction and operation of the Proposed Action and Alternatives. The EIS will include consideration of other characteristics that are relevant to identification of potential impacts from the Proposed Action, as appropriate.

Comments Specific to Soil Erosion

Comments mentioned the need to minimize soil erosion and siltation into various water bodies. Methods proposed include hay bales, silt fences, or other soil erosion prevention techniques. Comments also noted that newly graded areas should be seeded or sodded with native grasses, leguminous forbs, and trees and that natural buffers around wetlands and aquatic systems should remain undisturbed.

Response. The EIS will include consideration of erosion impacts and mitigation, if appropriate. This topic will be addressed in the water resources section of the EIS.

K. Land Use

Comments on Current and Future Impacts

Comments expressed concern that a new rail line would result in adverse impacts on both current and future land uses. Specific concerns were expressed regarding current land use including impacts on the Runway Protection Zone (RPZ) and safe use of the runways at Ellington Field. Comments expressed concern about the impact on the use of Sylvan Rodriguez Park. Concerns were expressed about future land use, including impacts to runway extensions or taxiway additions at Ellington Field, new development at or near Ellington Field, and increased industrial (rather than residential or commercial) development around the portions of the Proposed Action and Alternatives. Regarding future land uses, comments specifically suggested that SEA consult with NASA, the cities of Houston and Pasadena, and the Clear Lake Area Economic Development Foundation. Comments indicated that the EIS should address consistency of the proposed project with the coastal management program.

Response. The EIS will include an analysis of the potential land use impacts of the Proposed Action and Alternatives. The EIS land use analysis will include consideration of consistency of the project with the Coastal Zone Management Plan. The EIS will analyze both potential effects on current land use and effects on reasonably foreseeable future land use. The EIS will reflect the input of cooperating agencies and consultations with other agencies and organizations, including those specifically mentioned here. Regarding Ellington Field, SEA is consulting with the FAA and the City of Houston on the potential impacts of the Proposed Action. The FAA is using this EIS to cover its Federal Action and decision relative to its authority. Upon request by the owner of Ellington Field (i.e., the City of Houston) to (1) approve a change to the airport layout plan (ALP) to accommodate the Proposed Action and (2) release the affected airport property from surplus property restrictions and/or the airport owner's obligations under grant assurances contained in grant agreements, FAA will determine whether the ALP approval and release is appropriate pursuant to 49 U.S.C. 47151–47153 (formerly known as the Surplus Property Act), 49 U.S.C. 47107(c)(2)(B), 49 U.S.C. 47107(a)(16), and any other applicable Federal law, regulation, and applicable FAA Orders.

Comments on Future Land Use and Time Period for Analysis

Comments suggested that the corridor where new rail lines would be constructed as part of the Proposed Action and some of the alternatives serve as a buffer from further industrial development for residential communities to the north and south. Comments stated that the EIS should project land use for longer than three to six years because of the potential for a new rail line to encourage conversion of a residential area to a mixed-use area containing industrial, commercial, and residential uses.

Response. The EIS will use the best available information for reasonably foreseeable development to analyze any future changes in land use and the timeframe for those changes in the area affected by the Proposed Action and Alternatives. The EIS will address potential development of the project area for mixed use in the context of current residential, industrial, commercial, and institutional uses that include Ellington Field, a wastewater treatment plant near Ellington Field, the Boeing rocket engine manufacturing facility, the NASA Sonny Carter Training Facility, a water treatment plant, aggregate production facilities, miscellaneous light industrial and commercial operations, gas fields, two gas plants, a golf club, and undeveloped natural areas.

L. Socioeconomics

General Comments

Comments addressed the impact of the Bayport Loop project on socioeconomics in the Houston-Galveston area. Comments expressed general concern over lowered quality of life or the absence of economic benefits. Comments were received requesting an examination of economic impacts.

Response. The EIS will examine economic and social effects that would result from effects of the Proposed Action and Alternatives on the natural or physical environment. The EIS will analyze environmental impacts from the Proposed Action and Alternatives such as noise, air quality, land use, and transportation, to determine if these impacts might affect quality of life.

Comments on Property Values and Economic Costs

Comments expressed concern over impacts on property values, including degradation in value. Comments stated that the Proposed Action ultimately would result in loss of tax revenue, partly as the result of lowered property values. Comments requested a cost-

benefit analysis, including construction costs, income, expense, and cash flow statements, and annual rail transportation cost savings. Comments requested a complete economic analysis of the project. Comments also indicated the need to analyze in the EIS factors such as property values, quality of life, franchise taxes, and job growth. Comments also referred to the tax base for the Clear Creek Independent School District. Comments noted that chemical plants and other industries are important to maintain the economic viability and growth of the area. Comments also stated support for competition and fairness in transportation costs to the chemical industry.

Response. The EIS will analyze the socioeconomic effects that are reasonably foreseeable and that may result from the Proposed Action and Alternatives. As noted above, the EIS will examine economic and social effects associated with effects of the Proposed Action and Alternatives on the natural or physical environment. The regulations implementing NEPA at 40 CFR 1502.23, state that if a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered, the EIS should consider the cost-benefit analysis in evaluating the alternatives.[10]

Comments on Employment and Income

Comments indicated that the proposed rail line might bring jobs and commerce to the Houston area. Comments also stated that loss of jobs would occur. Comments suggested that the money funding the project might be used to create new jobs instead.

Response. The EIS will analyze economic impacts from the Proposed Action and Alternatives, such as effects on income and employment, associated with significant effects on the natural or physical environment.

Comments on Public Services

Comments indicated that construction and operation of a new rail line would result in negative impacts on public services, including the new Texas Children's Health Center (TCHC).

Response. To determine the potential effects of the Proposed Action and Alternatives on public service facilities in the project area, the EIS is analyzing environmental impacts such as noise, air quality, land use, and transportation, to determine if they might result in adverse effects to public services, including TCHC.

Comments on Parks and Recreation and Aesthetics

Comments stated that the proposed rail line would have impacts on parks. Comments specifically stressed that the project would produce significant adverse impacts on the Sylvan Rodriguez Park. Comments also referred to potential impacts on the recreational uses of Armand Bayou. Comments expressed concern about the effects of the Proposed Action and Alternatives on the aesthetic value of nearby neighborhoods and surrounding land.

Response. The EIS will consider the potential effects of the Proposed Action and Alternatives on parks and recreation and aesthetics.

M. Cultural Resources

General Comments

Comments indicated that the project might negatively affect revitalization of a historic area located near the existing mainline. Comments stated that an archeological survey of parts of the proposed project would be necessary prior to construction due to potential impacts on cultural resources.

Response. The EIS will address potential impacts to cultural resources and will describe the results of archeological surveys conducted as part of consultations with the Texas Historical Commission.

N. Environmental Justice

General Comments

Comments expressed concern over impacts that the Proposed Action could have on environmental justice communities. Comments indicated that the DEIS should account for the environmental justice problems (disproportionate adverse effects primarily on low-income and minority communities) already created in east and southeast Houston by rail traffic and resulting rail safety hazards. Comments indicated that the study areas used to examine environmental justice impacts should be consistent for all the alternatives, including the No-Action Alternative. In addition, comments indicated that the analysis for each alternative should include all affected populations, which may include populations along rail lines other than those used directly by the Proposed Action and Alternatives. Comments suggested that the analysis use 2000 Census Bureau data and determine the affected areas based on the results of analyses in other sections of the EIS.

Response. The EIS will address potential impacts of the Proposed Action and Alternatives on environmental justice communities. The EIS will describe the affected environment and environmental consequences associated with the Proposed Action and Alternatives across a range of topics, e.g., noise, hazardous materials transport, and highway/rail grade crossing safety. The environmental justice analysis will use the results of these analyses to disclose the affects to environmental justice populations (including direct, indirect, and cumulative effects) and determine whether the affects are disproportionately high and adverse. The EIS will use 2000 Census Bureau data for minority populations. The equivalent data is not yet available for income. The EIS will use the best available forecast of 2000 income levels.

Comments on Public Involvement and Environmental Justice

Comments stated that low-income, minority neighborhoods had not been informed of the project in a timely manner and expressed concern over the impacts from the Proposed Action. Comments also stated that agencies should seek input from environmental justice communities as early in the scoping process as possible.

Response. The EIS will describe the environmental justice outreach efforts during the scoping process and throughout the preparation of the document, including notifications concerning the project, public service announcements for Spanish language radio stations, distribution of a project fact sheet in Spanish, contacts with community groups, availability of a project hotline for Spanish speakers, and extension of the scoping comment period.

O. Cumulative Impacts

Comments on Cumulative Impacts

Comments stated that SEA should consider the cumulative impacts of the Bayport Loop Build-Out with other projects being planned in the local area.

[10] The Board considers the economic merits of a proposed rail line construction and operation in the merits phase of the proceeding. At 49 U.S.C. § 10502 the Board exercises its authority to exempt rail carrier transportation.

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the Board, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Board finds that the application in whole or in part of a provision of this part ''

(1) is not necessary to carry out the transportation policy of Section 10101 of this title; and

(2) either—

(A) the transaction of service is of limited scope; or

(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

These comments mentioned the Bayport Terminal, the TxDOT SH 146 Major Investment Study, the 2022 and 2025 Metropolitan Transportation Plans, and the Texas City/Shoal Point Container Terminal, among others. Comments stated that the EIS should study the cumulative impacts to rail and road transportation, rail operations, air quality, noise, land use, property values, risks of hazardous material release, wetlands, ecology, and environmental justice. Comments also stated that the Proposed Action should be analyzed along with the Bayport Terminal in a joint EIS.

Response. The EIS will contain analyses of the cumulative impacts of the Proposed Action and Alternatives combined with other projects in the local area, such as the Bayport Terminal. The analysis of cumulative impacts will cover all relevant environmental impact areas described in this Final Scope. As discussed earlier in this Final Scope, SEA and USACE are preparing separate EISs for this Proposed Action and for the Bayport Terminal project because the two projects are separate and distinct. They do not depend on each other economically or physically and each would proceed in the absence of the other.

The Web site for the Surface Transportation Board is *http://www.stb.dot.gov.*

Decided: July 8, 2002.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

BILLING CODE 4915–00–P

Attachment A

32302
SEA

SERVICE DATE - NOVEMBER 26, 2001

SURFACE TRANSPORTATION BOARD

Finance Docket No. 34079

San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Decided November 9, 2001

ACTION: Notice of Availability of Draft Scope of Study for the Environmental Impact Statement, Notice of Scoping Meetings, and Request for Comments.

SUMMARY: On August 30, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) (collectively the Applicants) filed a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop). Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. SEA is holding public scoping meetings as part of the EIS process, as discussed in the Notice of Intent to Prepare an EIS published by the Board on October 1, 2001. As part of the scoping process, SEA has developed a draft Scope of Study for the EIS.

DATES AND LOCATIONS: Scoping meetings will be held on:

January 14, 2002, 2-4 pm and 7-9 pm
January 15, 2002, 2-4 pm and 7-9 pm

The scoping meetings will be held at the:

Pasadena Convention Center
7902 Fairmont Parkway
Pasadena, Texas

The public scoping meetings will be informal meetings in a workshop format during which interested persons may ask questions about the proposal and the Board's environmental review process, and advise the Board's representative about potential environmental effects of the project. SEA has made available for public comment the draft scope contained in this notice.

SEA will issue a final scope shortly after the close of the comment period. Written comments on

the Scope of Study are due February 1, 2002 (60 days).

FILING ENVIRONMENTAL COMMENTS: Interested persons and agencies are invited to participate in the EIS scoping process. A signed original and 10 copies of comments should be submitted to:

Office of the Secretary
Case Control Unit
STB Finance Docket No. 34079
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

To ensure proper handling of your comments, you must mark your submission:

Attention: Dana White
Section of Environmental Analysis
Environmental Filing

FOR FURTHER INFORMATION CONTACT: Ms. Dana White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423-0001, or SEA's toll-free number for this project at 1-888-229-7857 (TDD for the hearing impaired 1-800-877-8339). The website for the Surface Transportation Board is www.stb.dot.gov.

SUPPLEMENTARY INFORMATION:

Draft Scope of Study for the EIS

Proposed Action and Alternatives

The proposed action, known as the Bayport Loop Build-Out, involves the construction and operation of approximately 12.8 miles of new rail line connecting the Bayport Loop petrochemical and plastic production facilities and the former Galveston, Henderson & Houston Railroad line, now owned by the Union Pacific Railroad Company (UP), near the southeast corner of Ellington Field at Texas State Highway 3. The proposed action also includes operating trains from the BNSF New South Yard over trackage rights on Union Pacific mainlines to the point of connection. As a result of the new construction, BNSF would have access to the facilities located in the Bayport Loop using the new line, and the facilities would be provided with a choice of rail providers.

The reasonable and feasible alternatives that will be evaluated in the EIS are (1) construction and operation of the proposed project along the identified preferred alignment, (2) other alternatives that might be identified during the scoping process, and (3) the no-action alternative.

Environmental Impact Analysis

Proposed New Construction

Analysis in the EIS will address the proposed activities associated with the construction and operation of new rail facilities and their potential environmental impacts, as appropriate.

Impact Categories

The EIS will address potential impacts from the proposed construction and operation of new rail facilities on the human and natural environment. Impact areas addressed will include the categories of land use, biological resources, water resources, geology and soils, air quality, noise, energy resources, socioeconomics as they relate to physical changes in the environment, safety, transportation systems, cultural and historic resources, recreation, aesthetics, and environmental justice. The EIS will include a discussion of each of these categories as they currently exist in the project area and will address the potential impacts from the proposed project on each category as described below:

1. Land Use

The EIS will:

a. Describe existing land use patterns within the project area and identify those land uses that would be potentially impacted by new rail line construction.

b. Describe the potential impacts associated with the proposed new rail line construction to land uses identified within the project area. Such potential impacts may include impacts to farming and ranching activities, incompatibility with existing land uses, consistency with the coastal zone management plan, and conversion of land to railroad uses.

c. Propose mitigative measures to minimize or eliminate potential project impacts to land use, as appropriate.

2. Biological Resources

The EIS will:

a. Describe the existing biological resources within the project area, including vegetative communities, wildlife and fisheries, and federal and state threatened or endangered species and the potential impacts to these resources resulting from construction and operation of new rail facilities.

b. Describe any wildlife sanctuaries, refuges, and national or state parks, forests, or grasslands within the project area and the potential impacts to these resources

c. resulting from construction and operation of new rail line.

d. Propose mitigative measures to minimize or eliminate potential project impacts to biological resources, as appropriate.

3. Water Resources

The EIS will:

a. Describe the existing surface and groundwater resources within the project area, including lakes, rivers, bayous, streams, stock ponds, wetlands, and floodplains and the potential impacts on these resources resulting from construction and operation of new rail line.

b. Describe the permitting requirements for the proposed new rail line construction regarding wetlands, stream and river crossings, water quality, and erosion control.

c. Propose mitigative measures to minimize or eliminate potential project impacts to water resources, as appropriate.

4. Geology and Soils

The EIS will:

a. Describe the geology and soils found within the project area, including unique or problematic geologic formations or soils and prime farmland and hydric soils and the potential impacts on these resources resulting from the construction and operation of new rail line.

b. Describe measures employed to avoid or construct through unique or problematic geologic formations or soils.

c. Propose mitigative measures to minimize or eliminate potential project impacts to geology and soils, as appropriate.

5. Air Quality

The EIS will:

a. Evaluate rail-related air emissions on new rail line, if the proposed project affects a Class I or non-attainment area as designated under the Clean Air Act.

b. Discuss and evaluate the potential air emissions increases from vehicle delays at new at-grade road/rail crossings. Emissions from vehicle delays will be factored into the emissions estimates for the affected area, as appropriate.

c. Describe the potential air quality impact resulting from new rail line construction activities.

d. Propose mitigative measures to minimize or eliminate potential project impacts to air quality, as appropriate.

6. Noise

The EIS will:

a. Describe the potential noise impacts during new rail line construction.

b. Describe the potential noise impacts of new rail line operation for those areas that exceed the Board's environmental threshold of eight or more trains per day.

c. Propose mitigative measures to minimize or eliminate potential project impacts to noise receptors, as appropriate.

7. Energy Resources

The EIS will:

a. Describe the potential impact of the new rail line on the distribution of energy resources in the project area, including petroleum and gas pipelines and overhead electric transmission lines.

b. Propose mitigative measures to minimize or eliminate potential project impacts to energy resources, as appropriate.

8. Socioeconomics

The EIS will:

a. Describe the potential environmental impacts to residences, residential areas, and communities within the project area as a result of new rail line construction and operation activities.

b. Describe the potential environmental impacts to commercial and industrial activities and development in the project area as a result of new rail line construction and operation.

c. Propose mitigative measures to minimize or eliminate potential project adverse impacts to social and economic resources, as appropriate.

9. Safety

The EIS will:

a. Describe existing road/rail grade crossing safety and the potential for an increase in accidents related to the new rail operations, as appropriate.

b. Describe existing rail operations and the potential for increased probability of train accidents, as appropriate.

c. Describe pipeline safety factors at rail/pipeline crossings, as appropriate.

d. Describe hazardous materials safety factors for the transportation of hazardous materials and the potential for a release of those materials, as appropriate.

e. Describe the potential for disruption and delays to the movement of emergency vehicles due to new rail line construction and operation.

f. Propose mitigative measures to minimize or eliminate potential project impacts to safety, as appropriate.

10. Transportation Systems

The EIS will:

a. Describe the potential impacts of new rail line construction and operation on the existing transportation network in the project area, including vehicular delays at grade crossings.

b. Describe potential impacts to navigation associated with new bridges.

c. Propose mitigative measures to minimize or eliminate potential project impacts to

transportation systems, as appropriate.

11. Cultural and Historic Resources

The EIS will:

a. Describe the potential impacts to historic structures or districts previously recorded and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the preferred and alternative construction alignments.

b. Describe the potential impacts to archaeological sites previously recorded and either listed as unevaluated or determined potentially eligible, eligible, or listed on the National Register of Historic Places within the right-of-way for the preferred and alternative construction alignments.

c. Describe the potential impacts to historic structures or districts identified by ground survey and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the preferred and alternative construction alignments.

d. Describe the potential impacts to archaeological sites identified by ground survey and determined potentially eligible, eligible, or listed on the National Register of Historic Places within the right-of-way for the preferred and alternative construction alignments.

e. Describe the potential general impacts to paleontological resources in the project area due to project construction, if necessary and required.

f. Propose mitigative measures to minimize or eliminate potential project impacts to cultural and historic resources, as appropriate.

12. Recreation

The EIS will:

a. Describe the potential impacts of the proposed new rail line construction and operation on recreational opportunities provided in the project area.

b. Propose mitigative measures to minimize or eliminate potential project impacts on recreational opportunities, as appropriate.

13. Aesthetics

The EIS will:

a. Describe the potential impacts of the proposed new rail line construction on any areas identified or determined to be of high visual quality.

b. Describe the potential impacts of the proposed new rail line construction on any waterways considered for or designated as wild and scenic.

c. Propose mitigative measures to minimize or eliminate potential project impacts on aesthetics, as appropriate.

14. Environmental Justice

The EIS will:

a. Describe the demographics in the project area and the immediate vicinity of the proposed new construction, including communities potentially impacted by the construction and operation of the proposed new rail line.

b. Evaluate whether new rail line construction or operation would have a disproportionately high adverse impact on any minority or low-income groups.

c. Propose mitigative measures to minimize or eliminate potential project impacts on aesthetics, as appropriate.

15. Cumulative Impacts

The EIS will address the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such actions.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

STB Finance Docket No. 34079 Attachment B

SURFACE TRANSPORTATION BOARD
Section of Environmental Analysis
Washington, DC 20423

Proposed San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway Company Bayport Loop Build-Out

WHAT IS THE "BAYPORT LOOP BUILD-OUT PROJECT"? The Bayport Loop Build-Out would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop). The Bayport Loop consists of approximately 24 shipper facilities. Union Pacific (UP) is currently the only railroad serving the Bayport Loop. As a result of the new construction, Burlington Northern and Santa Fe (BNSF) would have access to the facilities located in the Bayport Loop using the new line, and the facilities would be provided with a choice of rail providers in the area. Trains operating over the new rail line would originate at BNSF's New South Yard and operate via trackage rights over the UP's Glidden Subdivision and UP's Galveston Subdivision, also known as the former Galveston, Henderson, and Houston (GH&H) line, to the beginning of the new rail line near Ellington Field.

WHAT IS THE PURPOSE OF THE FINAL SCOPE? The Final Scope defines the environmental issues that will be analyzed in the Environmental Impact Statement (EIS), and summarizes comments and concerns expressed by the public and interested Federal, state, and local agencies. These comments, as well as on site inspections by the Surface Transportation Board's Section of Environmental Analysis (SEA) staff and independent analysis by the SEA staff and its third-party independent consultant, defined the scope of study of the EIS.

WHERE ARE ADDITIONAL COPIES OF THE FINAL SCOPE AVAILABLE? The Final Scope is available for review at several repositories. If you are unable to access one of these locations, please contact us and we will provide you with a copy of the document. Documents are available in both English and Spanish. The project address and toll-free hotline number are listed below.

WHAT ARE THE NEXT STEPS FOR THE PROJECT? SEA is preparing a Draft EIS to address the potential impacts from the proposed construction and operation of the new rail facilities on the human and natural environment. This document will be available for public review and comment.

HOW DO I OBTAIN MORE INFORMATION ABOUT THE PROJECT? If you would like to be placed on our mailing list to receive project information, please write the SEA project manager at the address below, or call the toll-free project hotline at **1-888-229-7857** and leave your name and address. The hotline is also periodically updated with new project information. Information on the hotline is provided in both English and Spanish.

ADDRESS:
Dana White
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001
Attention: Finance Docket No. 34079

JUNTA DE TRANSPORTE SUPERFICIE
Sección de Análisis Ambiental
Washington, DC 20423

Propuesta Para Construcción de una Línea de Ferrocarril Tipo Build-Out por el San Jacinto Rail Limited y el Burlington Northern and Sante Fe Railway Company hacia el Bayport Loop

¿QUÉ ES EL "PROYECTO TIPO BUILD-OUT EN EL BAYPORT LOOP"? El Proyecto tipo Build-Out en el Bayport Loop implicará la construcción de aproximadamente 12.8 millas de nuevas líneas de ferrocarril para brindar servicio a las industrias petroquímicas en el Distrito Industrial de Bayport (Bayport Loop). Éste consiste de aproximadamente 24 instalaciones de carga. El Union Pacific (UP) es el único ferrocarril que actualmente presta servicio en Bayport Loop. Como resultado de la nueva construcción, el ferrocarril Burlington Northern and Santa Fe (BNSF) tendría acceso a las instalaciones localizadas en el Bayport Loop utilizando la nueva línea, y a las empresas se les brindaría la oportunidad de escoger al proveedor de servicios de ferrocarril. Los trenes que operen sobre la nueva línea partirían de la estación de clasificación del BNSF de New South Yard y operaría mediante un derecho de circulación a través de Glidden Subdivision de la UP y de Galveston Subdivision de la UP, conocida también como la antigua línea Galveston, Henderson, and Houston (GH&H), hasta el entronque con la nueva línea cerca del aeropuerto Ellington Field.

¿CUÁL ES ÉL PROPOSITO DEL ENFOQUE FINAL? En el Enfoque Final se definen aspectos ambientales que se analizarán en el Informe de Impacto Ambiental (informe conocido como EIS, por sus siglas en inglés) y en él se resumen comentarios e inquietudes expresados por el público y agencias Federales, estatales y locales interesadas. Estos comentarios, igual que las inspecciones realizadas directamente en el sitio por personal de la Sección de Análisis Ambiental (conocida como SEA, por su sigla en inglés) de la Junta de Transporte por Superficie y los análisis independientes realizados por personal de SEA y su consultor independiente, definieron el alcance del estudio del EIS.

¿DÓNDE ESTAN DISPONIBLES COPIAS ADICIONALES DEL ENFOQUE FINAL? El Enfoque Final está disponible para su revisión en diversos sitios. Si no le es posible llegar a alguno de estos sitios, por favor contáctenos y le suministraremos una copia del documento. Éstos están disponibles tanto en Inglés como en Español. Más adelante se da la dirección del proyecto y el número de una línea telefónica libre de costo.

¿CUÁLES SON LOS SIGUIENTES PASOS PARA EL PROYECTO? SEA está preparando un Borrador del EIS donde se toman en cuenta los impactos potenciales derivados de la construcción y operación propuestas para la nueva línea de ferrocarril sobre el ambiente humano y natural. Este documento estará disponible para que el público lo revise y emita comentarios al respecto.

¿CÓMO OBTENGO MAS INFORMACIÓN SOBRE EL PROYECTO? Si usted desea ser incluido en nuestra lista de correo para recibir información referente al proyecto, por favor escriba a la gerente de proyecto del SEA a la dirección indicada más adelante, o llame gratis a través de la línea telefónica libre de costo 1-888-229-7857 y deje su nombre y dirección. También, la línea sin costo se actualiza periódicamente con nueva información sobre el proyecto, la cual se suministra tanto en Inglés como en Español.

DIRECCIÓN:
Dana White
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001
Attention: Finance Docket No. 34079

BILLING CODE 4915–00–C
[FR Doc. 02–17518 Filed 7–18–02; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 620X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption-in Raleigh County, WV

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over approximately 15.12 miles of railroad at Jarrolds Valley Junction between milepost CLP 0.0 and the end of track near Clear Creek at milepost CLP 15.12, in Raleigh County, WV. The line traverses United States Postal Service Zip Codes 25008, 25044, 25048, 25060, and 25193.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2–year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 20, 2002, unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[1] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 29, 2002. Petitions to reopen [2] must be filed by August 8, 2002, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to CSXT's representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: July 12, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–18246 Filed 7–18–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Each offer of financial assistance must be accompanied by the filing fee, which is currently set at $1,100. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding, trail use/rail banking and public use conditions are not appropriate. This proceeding is exempt from environmental and historic reporting requirements. CSXT only intends to discontinue service over the line and does not intend to abandon the line, but intends instead to leave the line in place. CSXT indicates that this would facilitate possible future operations over the line in the event the coal market would warrant those operations. Because CSXT's discontinuance of service will merely result in the cessation of service over the line, and has not sought abandonment authority, this proceeding is exempt from the report requirements listed above and no environmental documentation will be prepared. *See* 49 CFR 1105.6 (c)(6) and 1105.8 (a) and (b).

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary (Financial Institutions); Proposed Renewal of Information Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury's (''Treasury'') Office of the Assistant Secretary (Financial Institutions), which administers the First Accounts Grant Program, and as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of the Assistant Secretary (Financial Institutions) within Treasury is soliciting comment concerning its renewal of a collection of information titled, ''First Accounts Program Agreement for Grants.''

DATES: Written comments should be received on or before September 20, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to either Department of the Treasury, ATTN: First Accounts, Main Treasury Building, Room 5017, 15th and Pennsylvania Avenue, NW, Washington, DC 20220 (Tel.: 202/622–0741) or *first.accounts@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: You can request additional information from or a copy of the collection from Jean Whaley, Director, Office of the Assistant Secretary (Financial Institutions), Department of the Treasury, Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220 (Tel.: 202/622–0741).

SUPPLEMENTARY INFORMATION:

Title: First Accounts Program Agreement for Grants.

OMB Number: 1505–0188.

Abstract: Treasury's Office of the Assistant Secretary (Financial Institutions) is collecting information under the terms of a Grant Agreement between Treasury and awardees of First Accounts grants. The paramount goal of the First Accounts grants is to move a maximum number of ''unbanked'' low- and moderate-income individuals to a ''banked'' status with either an insured credit union or an insured depository institution. The collection of information in the Grant Agreement is fivefold. First, it requires each awardee to submit to Treasury an opinion of awardee counsel addressing such commercially standard matters as the due authorization, execution, delivery and enforceability of the Grant Agreement. Second, it requires each awardee to submit to Treasury quarterly reports addressing the awardee's financial and project performance. Third, it requires each awardee to submit to Treasury a final financial and performance report after the expiration of the grant. Fourth, it requires each awardee to submit annually to Treasury audited financial statements. Fifth, it imposes specific record keeping requirements. The purpose of the collection of information is to ensure that the Grant Agreement constitutes a legally binding obligation of each awardee and to monitor awardee compliance, performance, and financial soundness. The purpose of the record keeping requirements is to ensure both the effective and efficient use of the grant consistent with sound business practices, and the ability to audit the use of the grant consistent with the Grant Agreement.

Current Actions: Extension.

Type of Review: Extension.

Affected Public: For-profit institutions, not-for-profit institutions, and Local Governments.

Estimated Number of Respondents: 15.

Estimated Total Annual Responses: 90–105.

Frequency of Responses: This varies, depending on the specific reporting requirements, but consists of quarterly, annual and on occasion reporting requirements.

Estimated Total Annual Burden Hours: 555 hours.

Requests for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 11, 2002.

Jean Whaley,

Director, Office of the Assistant Secretary (Financial Institutions).

[FR Doc. 02–18248 Filed 7–18–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 19, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0119.

Form Number: IRS Form 1099–R.

Type of Review: Extension.

Title: Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

Description: Form 1099–R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by IRS to verify that income has been properly reported by the recipient.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 350,000.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 18,704,546 hours.

OMB Number: 1545–0235.

Form Number: IRS Form 730.

Type of Review: Revision.

Title: Monthly Tax on Wagering.

Description: Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 4,150.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 44 min.

Learning about the law or the form—53 min.

Preparing, copying, assembling and sending the form to the IRS—1 hr., 1 min.

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 391,289 hours.

OMB Number: 1545–0415.

Form Number: IRS Form W–4P.

Type of Review: Extension.

Title: Withholding Certificate for Pension or Annuity Payments.

Description: Form W–4P is used by the recipient of pension or annuity payments to designate the number of withholding allowances he or she is claiming, an additional amount to be withheld, or to elect that no tax be withheld, so that the payer can withhold the proper amount.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 12,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—39 min.

Learning about the law or the form—24 min.

Preparing and sending the form to the IRS—59 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 24,600,000 hours.

OMB Number: 1545–0877.

Form Number: IRS Form 1099–A.

Type of Review: Extension.

Title: Acquisition or Abandonment of Secured Property.

Description: Form 1099–A is used by lenders to report foreclosures and abandonments of property that is security for a loan.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 12,916.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 61,817 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–18247 Filed 7–18–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Certificate of Compliance With 18 U.S.C. 922(g)(5)(B).

DATES: Written comments should be received on or before September 17, 2002 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Derek O. Ball, Firearms and Explosives Import Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8320.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Compliance With 18 U.S.C. 922(g)(5)(B)

OMB Number: 1512–0571

Form Number: ATFF 5330.20

Abstract: The law of 18 U.S.C. 922(g)(5)(B) makes it unlawful for any nonimmigrant alien to ship or transport in interstate commerce, or posses in or affecting commerce, any firearm, ammunition, which has been shipped or transported in interstate or foreign commerce. ATF F 5330.20 is for the purpose of ensuring that nonimmigrant aliens certify their compliance according to the law at 18 U.S.C. 922(g)(5)(B).

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Total Annual Burden Hours: 150.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 11, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–18322 Filed 7–18–02; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0031]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 19, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0031.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0031'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veteran's Supplemental Application for Assistance in Acquiring Specially Adapted Housing, VA Form 26–4555c.

OMB Control Number: 2900–0031.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by Loan Guaranty Personnel in approving the benefits available under 38 U.S.C. 2101(a). The information requested is necessary in order to determine if it is economically feasible for a veteran to reside in specially adapted housing and also to compute the proper grant amount.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 23, 2002 at page 19808.

Affected Public: Individuals or households.

Estimated Annual Burden: 150 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 600.

Dated: July 9, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–18271 Filed 7–18–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0548]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Board of Veterans' Appeals (BVA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information used by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to assess the effectiveness of current procedures used in conducting hearing.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 17, 2002.

ADDRESSES: Submit written comments on the collection of information to Gayle Srommen (01), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: gayle.strommen@mail.va.gov. Please refer to ''OMB Control No. 2900–0548'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Gayle Strommen at (202) 565–9717 or FAX (202) 565–4064.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, BVA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of BVA's functions, including whether the information will have practical utility; (2) the accuracy of BVA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Generic Clearance for Board of Veterans' Appeals Customer Satisfaction with Hearing Survey, VA Form 0745.

OMB Control Number: 2900–0548.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The presiding official at hearings conducted by the BVA will, at the conclusion of the proceeding, present the appellant with a Customer Satisfaction with Hearing Survey, VA Form 0745 to complete. The appellant is informed that participation is voluntary, anonymous and will have no bearing on the outcome of the hearing. BVA will use the information to assess the effectiveness of current procedures used in conducting hearings and to develop better methods of serving veterans.

Affected Public: Individuals or households.

Estimated Annual Burden: 600 hours.

Estimated Average Burden Per Respondent: 6 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 6,000.

Dated: July 2, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–18269 Filed 7–18–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0061]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine that the requested supplies are reasonable for veterans use in rehabilitation program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 17, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0061'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Request for Supplies (Chapter 31-Vocatonal Rehabilitation), VA Form 28–1905m.

OMB Control Number: 2900–0061.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 28–1905m is used to request supplies for veterans in rehabilitation facilities. The official at the facility providing rehabilitation services to the veteran completes the form and certifies that the veteran needs the supplies for his or her program and that the veteran does not have the requested item in his or her possession. The veteran also certifies that he or she is not in possession of any of the supplies listed on the form.

Affected Public: Not-for-profit institutions, individuals or households, business or other for-profit.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: July 9, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–18270 Filed 7–18–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0209]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits

Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 19, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0209.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0209'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles

a. Application for Work-Study Allowance (38 U.S.C. Chapters 30, 31, 32 and 35; 10 U.S.C. Chapter 1606), VA Form 22–8691.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692.

c. Extended Student Work-Study Agreement, VA Form 22–8692a.

d. Work-Study Agreement (Student Services), VA Form 22–8692b.

OMB Control Number: 2900–0209.

Type of Review: Revision of a currently approved collection.

Abstract

a. Eligible veterans, Selected Reservists, and survivors or dependents complete VA Form 22–8691 to apply for work-study benefits.

b. VA Form 22–8692 is used by claimants to request an advance payment of work-study allowance.

c. VA Form 22–8692a is used by the claimant to extend his or her contract.

d. VA Form 22–8692b is used by claimants who do not want a work-study advanced allowance payment.

VA uses the information to determine the applicant's eligibility to work-study allowance and the amount payable.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 23, 2002, at page 19807.

Affected Public: Individuals or households.

Estimated Annual Burden: 9,184.

a. Application for Work-Study Allowance (38 U.S.C. Chapters 30, 31, 32 and 35; 10 U.S.C. Chapter 1606), VA Form 22–8691—5,500 hours.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692—1,667 hours.

c. Extended Student Work-Study Agreement, VA Form 22–8692a—350 hours.

d. Work-Study Agreement (Student Services), VA Form 22–8692b—1,667 hours.

Estimated Average Burden Per Respondent: 7 minutes.

a. Application for Work-Study Allowance (38 U.S.C. Chapters 30, 31, 32 and 35; 10 U.S.C. Chapter 1606), VA Form 22–8691—10 minutes.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692—5 minutes.

c. Extended Student Work-Study Agreement, VA Form 22–8692a—3 minutes.

d. Work-Study Agreement (Student Services), VA Form 22–8692b—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 80,000

a. Application for Work-Study Allowance (38 U.S.C. Chapters 30, 31, 32 and 35; 10 U.S.C. Chapter 1606), VA Form 22–8691—33,000.

b. Student Work-Study Agreement (Student Services), VA Form 22–8692—20,000.

c. Extended Student Work-Study Agreement, VA Form 22–8692a—7,000.

d. Work-Study Agreement (Student Services), VA Form 22–8692b—20,000.

Dated: July 1, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–18266 Filed 7–18–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0362]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 19, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0362.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0362'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles

a. Claim Under Loan Guaranty (Chapter 37, Title 38, U.S.C.), VA Form 26–1874.

b. Supplemental Claim Form—Adjustable Rate Mortgages, VA Form 26–1874a.

OMB Control Number: 2900–0362.

Type of Review: Extension of a currently approved collection.

Abstract

a. Lenders and holders of VA guaranteed home loans use VA Form 26–1874 as notification to VA of default loans.

b. VA Form 26–1874a is used as an attachment to VA Form 26–1874 when filing a claim under the loan guaranty resulting from the termination of an Adjustable Rate Mortgage Loan. The information obtained on both forms is essential to VA in determining the amount owed to the holder under the guaranty.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 29, 2002, at pages 15286–15287.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 26,139 hours.

a. VA Form 26–1874—25,806 hours.

b. VA Form 26–1874a—333 hours.

Estimated Average Burden Per Respondent: 59 minutes (average).

a. VA Form 26–1874—60 minutes.

b. VA Form 26–1874a—20 minutes.

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 26,806.

a. VA Form 26–1874—25,806.

b. VA Form 26–1874a—1,000.

Dated: July 1, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–18267 Filed 7–18–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0014]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 19, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0014.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0014'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status, VA Form 28–1905.

OMB Control Number: 2900–0014.

Type of Review: Extension of a currently approved collection.

Abstract: The information collected on VA Form 28–1905 ensures that veterans or other eligible persons do not receive benefits for periods when they did not actually begin to participate in any rehabilitation or special restorative or specialized vocational training program. VA uses the information to establish the correct beginning and ending dates for the education, training, or other rehabilitation services and the correct rates for subsistence allowance payments.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 29, 2002, at pages 21016—21017.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, and State, Local or Tribal Government.

Estimated Annual Burden: 2,917 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 35,000.

Dated: July 1, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–18268 Filed 7–18–02; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 67, No. 139
Friday, July 19, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Ricin Vaccine and Methods of Making and Using Thereof

Correction

In the issue of Monday, July 15, 2002, on page 46566, in the second column, in the correction of notice document C2-16885, ''110/083,336'' should read ''10/083,336''.

[FR Doc. C2–16885 Filed 7–18–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2001–08; FAR Case 2000–406; Item I]

RIN 9000–AJ19

Federal Acquisition Regulation; Definition of ''Claim'' and Terms Relating to Termination

Correction

In rule document 02–15940 beginning on page 43513 in the issue of Thursday, June 27, 2002, make the following corrections:

52.213-4 [Corrected]

1. On page 43514, in the second column, in 52.213-4, in amendatory instruction 9., in the third line, ''(7/02)'' should read ''(Jul/02)''.

2. On page 43514, in the second column, in the same section, in the same amendatory instruction, in the fifth line, ''7/02'' should read ''Jul 02''.

52.233-1 [Corrected]

3. On page 43514, in the second column, in 52.233-1, in the sixth line from the bottom, ''**Disputes (7/02)**'' should read ''**Disputes (Jul/02)**''

[FR Doc. C2–15940 Filed 7–18–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Energy Information Adminstration

Agency Information Collection Activities: Policy for Revisions to the Weekly Natural Gas Storage Report; Comment Request

Correction

In notice document 02–17421 beginning on page 45963 in the issue of Thursday, July 11, 2002, make the following correction:

On page 45963, in the first column, under the heading **ADDRESSES**, in the fourth line, ''202-586-4220'' should read, ''202-586-4420''.

[FR Doc. C2–17421 Filed 7–18–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0012

Correction

In notice document 02–17412 beginning on page 45986 in the issue of Thursday, July 11, 2002 make the following correction:

On page 45986, in the second column, in the fourth paragraph, under the **DATES** heading, in the third line ''September 9, 2000'' should read ''September 9, 2002''.

[FR Doc. C2–17412 Filed 7–18–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0011

Correction

In notice document 02–17411 beginning on page 45985 in the issue of Thursday, July 11, 2002 make the following correction:

On page 45985, in the third column, under the **DATES** heading, in the third line ''September 9, 2001'' should read ''September 9, 2002''.

[FR Doc. C2–17411 Filed 7–18–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

[AAG/A Order No. 268-2002]

Privacy Act of 1974; Notice of the Removal of Two Systems of Records

Correction

In notice document 02–14400 appearing on page 39743 in the issue of Monday, June 10, 2002, make the following correction:

In the third column, in the first paragraph, the fourth line should read, ''**Federal Register** on December 11, 1987, at 52 FR 47268 and the ''Financial Management System,'' last published in the **Federal Register** on October 7, 1988''.

[FR Doc. C2–14400 Filed 7–18–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
July 19, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 39
Airworthiness Directives; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–53–AD; Amendment 39–12804; AD 2002–14–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires performing an inspection of the wiring of the Firex bottle discharge cartridge of the No. 2 engine at station Y=2163.00 bulkhead for chafing on adjacent structure and damaged wiring; repairing damaged wires; and repositioning wires, if necessary. This action is necessary to prevent chafing and possible damage to the wiring of the Firex bottle discharge cartridge of the No. 2 engine, which could result in improper distribution of the fire extinguishing agent within the No. 2 engine in the event of a fire. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and -11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50899). That action proposed to require performing an inspection of the wiring of the Firex bottle discharge cartridge of the No. 2 engine at station Y=2163.00 bulkhead for chafing on adjacent structure and damaged wiring; repairing damaged wires; and repositioning wires, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Withdraw Proposed AD

One commenter requests that the proposed AD be withdrawn, because repetitive maintenance tasks are performed on the fire extinguishers and the condition of the circuit can be inspected easily. Therefore, the proposed AD is unnecessary.

The FAA does not agree. Because airplane maintenance manuals (AMM) are not FAA-approved and the procedures specified in AMMs vary from operator to operator, there are no assurances that each operator's AMM contains the equivalent actions required by this AD. Therefore, no change to this final rule is necessary in this regard.

Request That Credit Be Given for Previous Inspection

One commenter requests that the proposed AD be revised to acknowledge operators that have previously inspected for chafing and damage are exempt from having to reaccomplish the wiring inspection. Under the heading ''Difference Between the Service Bulletin and the Proposed AD'' in the preamble of the proposed AD, the commenter notes that it states that the referenced service bulletin describes only procedures for an inspection to detect damaged wiring, and that the proposed AD would require that inspection to detect both chafing AND damaged wiring. The commenter states that its Engineering Order Work Instructions state, ''If the wiring at Station Y=2163.00 bulkhead is not chafing or damaged, no further action is required.''

The FAA does not consider that a change to the final rule is necessary. Operators are given credit for work previously performed by means of the phrase in the ''Compliance'' section of the AD that states, ''Required as indicated, unless accomplished previously.'' Therefore, in the case of this AD, if the required inspection has been accomplished before the effective date of this AD, this AD does not require that it be repeated.

Explanation of Change to AD Applicability

The FAA finds that Model MD–11F airplanes were not specifically identified by model name in the applicability of the proposed AD. However, those airplanes were identified by the manufacturer's fuselage numbers in the effectivity listing of Boeing Service Bulletin MD11–26–037, dated November 8, 2000, which was referenced in the applicability of the proposed AD. Therefore, we have revised this AD to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Change of Definition

For clarification purposes, the FAA has revised the definition of a ''general visual inspection'' in Note 2 of this AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 148 Model MD–11 and –11F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 58 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work

hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,480, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–04 McDonnell Douglas: Amendment 39–12804. Docket 2001–NM–53–AD.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Service Bulletin MD11–26–037, dated November 8, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and possible damage to the wiring of the Firex bottle discharge cartridge of the No. 2 engine, which could result in improper distribution of the fire extinguishing agent within the No. 2 engine in the event of a fire, accomplish the following:

General Visual Inspection

(a) Within 15 months after the effective date of this AD, do a general visual inspection of the wiring of the Firex bottle discharge cartridge of the No. 2 engine at station Y=2163.00 bulkhead for chafing on adjacent structure and damaged wiring, per Boeing Service Bulletin MD11–26–037, dated November 8, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: Where there are differences between the referenced service bulletin and the AD, the AD prevails.

Condition 1 (No Chafing or Damaged Wiring)

(1) If no chafing or damaged wiring is detected, no further action is required by this AD.

Condition 2 (Chafing with No Damaged Wiring)

(2) If any chafing with no damaged wiring is detected, before further flight, reposition wires, per the service bulletin.

Condition 3 (Chafing with Damaged Wiring)

(3) If any chafing with damaged wiring is detected, before further flight, repair damaged wires and reposition wires, per the service bulletin.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin MD11–26–037, dated November 8, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17526 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–55–AD; Amendment 39–12805; AD 2002–14–05]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 airplanes, that currently requires repetitive general visual inspections of the power feeder cables, terminal strip, fuseholder, and fuses of the galley load control unit (GLCU) within the No. 3 bay electrical power center to detect damage; and corrective actions, if necessary. This amendment requires replacement of the electrical wiring of the galley in the electrical power center in bays 1, 2, and 3 with larger gage cable assemblies, which terminates the repetitive inspections. This amendment also expands the applicability of the existing AD to include two additional airplanes. This action is necessary to prevent damage to the wire assembly terminal lugs and overheating of the power feeder cables on the No. 3 and 4 GLCU, which could result in smoke and fire in the center accessory compartment. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of a certain publication, as listed in the regulations, is approved by the Director of the Federal Register as of August 23, 2002.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 4, 2000 (64 FR 71001, December 20, 1999).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 99–26–03 C1, amendment 39–11463 (65 FR 4870, February 2, 2000), which is applicable to certain McDonnell Douglas Model MD–11 airplanes, was published in the **Federal Register** on October 5, 2001 (66 FR 50903). The action proposed to continue to require repetitive general visual inspections of the power feeder cables, terminal strip, fuseholder, and fuses of the galley load control unit (GLCU) within the No. 3 bay electrical power center to detect damage; and corrective actions, if necessary. That action also proposed to required replacement of the electrical wiring of the galley in the electrical power center in bays 1, 2, and 3 with larger gage cable assemblies, which terminates the repetitive inspections. The action also proposed to expand the applicability of the existing AD to include two additional airplanes.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Extend Compliance Time

One commenter requests that the proposed AD be revised to extend the compliance time of the replacement required by paragraph (c) of the proposed AD from 12 months to 18 months. The commenter states that inspections at 450-flight-hour intervals have not shown any evidence of overheating to date and will provide an equivalent level of safety. The commenter also states that this extension would allow affected operators to perform the replacement during a regularly scheduled maintenance interval and avoid the possibility of out-of-service time.

The FAA does not concur with the commenter's request to extend the compliance time for the required replacement. In developing an appropriate compliance time, we considered the safety implications, the time necessary for accomplishing the replacement, and normal maintenance schedules for timely accomplishment of the replacement. In light of these items, we have determined that 12 months for compliance is appropriate. However, paragraph (d)(1) of the final rule does provide affected operators the opportunity to apply for an adjustment of the compliance time if data are presented to justify such an adjustment.

Request to Accept Previously Approved Alternative Methods of Compliance (AMOC)

One commenter requests that the FAA continue to accept AMOCs that were previously granted per AD 99–26–03. The commenter states that it has such an AMOC. The FAA concurs. We have included a new paragraph (d)(2) in this AD to clarify that AMOCs previously approved in accordance with ADs 99–26–03 and 99–26–03 C1, both having amendment 39–11463, are approved as AMOCs with this AD.

Explanation of Change to AD Number and Associated Federal Register Citation

The FAA has revised the final rule to update the AD number and associated **Federal Register** citation for the superseded AD. A final rule; correction (i.e., AD 99–26–03 C1); was published in the **Federal Register** on February 2, 2000 (65 FR 4870) to revise the statement of the unsafe condition to correct the description of the locations of the power feeder cables.

Explanation of Change to Inspection Definition

For clarification purposes, the FAA has revised the definition of a ''general visual inspection'' in Note 2 of this final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has

determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 135 Model MD–11 airplanes of the affected design in the worldwide fleet. The FAA estimates that 31 airplanes of U.S. registry will be affected by this AD.

The inspection that is currently required by AD 99–26–03 C1, and retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspection on U.S. operators is estimated to be $1,860, or $60 per airplane, per inspection cycle.

The new action that is required in this AD action will take approximately 18 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $14,647 per airplane. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be $487,537, or $15,727 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11463 (65 FR 4870, February 2, 2000), and by adding a new airworthiness directive (AD), amendment 39–12805, to read as follows:

2002–14–05 McDonnell Douglas: Amendment 39–12805. Docket 2001–NM–55–AD. Supersedes AD 99–26–03 C1, Amendment 39–11463.

Applicability: Model MD–11 airplanes, as listed in Boeing Service Bulletin MD11–24–184, dated February 22, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the wire assembly terminal lugs and power feeder cables due to the accumulated effects over time from overheating of the power feeder cables on the No. 3 and 4 galley load control unit (GLCU), which could result in smoke and fire in the central accessory compartment, accomplish the following:

Restatement of Requirements of AD 99–26–03 C1

Repetitive Inspections and Replacement, If Necessary

(a) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A160, Revision 01, dated November 11, 1999: Within 60 days after January 4, 2000 (the effective date of AD 99–26–03 C1, amendment 39–11463), perform a general visual inspection of the power feeder cables, terminal strip, fuseholder, and fuses of the GLCU within the No. 3 bay electrical power center to detect damage (*i.e.,* discoloration of affected parts or loose attachments), in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A160, dated August 30, 1999; or Revision 01, dated November 11, 1999.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If no damage is detected during any inspection required by this AD, repeat the general visual inspection thereafter at intervals not to exceed 600 flight hours.

(2) If any damage is detected during any inspection required by this AD, prior to further flight, replace the power feeder cables, fuseholder, and/or fuses, as applicable, in accordance with the service bulletin. Repeat the general visual inspection thereafter at intervals not to exceed 600 flight hours.

New Actions Required By This AD

Repetitive Inspections and Replacement, If Necessary

(b) For airplanes having serial numbers 547 and 554: Within 60 days after the effective date of this AD, do the actions required by paragraphs (a), (a)(1), and (a)(2) of this AD, as applicable.

Replacement

(c) Within 12 months after the effective date of this AD, replace the electrical wiring of the galley in the electrical power center in bays 1, 2, and 3 with larger gage cable assemblies, in accordance with Boeing Service Bulletin MD11–24–184, dated February 22, 2001. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of paragraphs (a) and (b) of this AD.

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO),

FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(2) Alternative methods of compliance, approved previously in accordance with ADs 99–26–03 and 99–26–03 C1, both having amendment 39–11463, are approved as alternative methods of compliance with this AD.

Special Flight Permits

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

Incorporation by Reference

(f) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A160, dated August 30, 1999, or McDonnell Douglas Alert Service Bulletin MD11–24A160, Revision 01, dated November 11, 1999; and Boeing Service Bulletin MD11–24–184, dated February 22, 2001; as applicable.

(1) The incorporation by reference of Boeing Service Bulletin MD11–24–184, dated February 22, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A160, dated August 30, 1999; and McDonnell Douglas Alert Service Bulletin MD11–24A160, Revision 01, dated November 11, 1999; was approved previously by the Director of the Federal Register as of January 4, 2000 (64 FR 71001, December 20, 1999).

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17527 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–59–AD; Amendment 39–12806; AD 2002–14–06]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires installation of protective sleeving on the right emergency alternating current (AC) wire assembly of the overhead switch panel. This action is necessary to ensure that protective sleeving is installed on the right emergency AC wire assembly of the overhead switch panel. Lack of such sleeving could result in loss of redundant electrical power during certain cockpit overhead wiring faults. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50915). That action proposed to require installation of protective sleeving on the right emergency alternating current (AC) wire assembly of the overhead switch panel.

Comment Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

Request To Include an Optional Installation

One commenter requests that the proposed AD be revised to include an option to install individual pieces of sleeving on each of the three AC wires. The commenter believes that this option instead of the proposed installation of a one-piece sleeving around all three AC wires would be safer, better, and easier to install. The commenter states that this option would keep the individual wires from rubbing against each other and provide complete isolation of the AC phases.

The FAA does not agree. We do not consider it appropriate to include various provisions in an AD applicable to a single operator's unique use of an affected airplane. However, under the provisions of paragraph (b) of the final rule, we may consider request for approval of an alternative method of compliance (AMOC) if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

Explanation of Change to AD Applicability

The FAA finds that Model MD–11F airplanes are not specifically identified by model name in the applicability of the proposed AD. However, those airplanes were identified by manufacturer's fuselage numbers in the effectivity listing of Boeing Service

Bulletin MD11–24–197, dated May 16, 2001, which was referenced in the applicability of the proposed AD. Therefore, we have revised this final rule to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 119 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 34 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of parts. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,160, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–06 McDonnell Douglas: Amendment 39–12806. Docket 2001–NM–59–AD.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Service Bulletin MD11–24–197, dated May 16, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

Installation

(a) Within 18 months after the effective date of this AD, install protective sleeving on the right emergency wire assembly of the overhead switch panel, per Boeing Service Bulletin MD11–24–197, dated May 16, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The installation shall be done in accordance with Boeing Service Bulletin MD11–24–197, dated May 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17528 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–60–AD; Amendment 39–12807; AD 2002–14–07]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires relocation of the mod block tracks on the flight compartment floor beams in the avionics compartment beneath the Captain's and First Officer's seats. This action is necessary to prevent chafing and compression of electrical wiring at the upper track mod blocks on the flight compartment floor beams in the avionics compartment beneath the Captain's and First Officer's seats, which could result in electrical arcing and consequent smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information*: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50886). That action proposed to require relocation of the mod block tracks on the flight compartment floor beams in the avionics compartment beneath the Captain's and First Officer's seats.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Change to Applicability

The FAA has determined that some confusion may arise from the applicability of the NPRM, because McDonnell Douglas Model MD–11F airplanes were not specifically identified. However, those airplanes were identified by manufacturer's fuselage numbers in Boeing Alert Service Bulletin MD11–24A036, Revision 01, dated May 21, 2001 (which was referenced in the applicability statement of the AD for determining the specific affected airplanes). Therefore, we have revised the applicability throughout the final rule to include Model MD–11F airplanes, in addition to Model MD–11 airplanes. In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 23 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $705 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,600, or $825 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–07 McDonnell Douglas: Amendment 39–12807. Docket 2001–NM–60–AD.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Alert Service Bulletin MD11–24A036, Revision 01, dated May 21, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and compression of electrical wiring at the upper track mod blocks on the flight compartment floor beams in the avionics compartment beneath the Captain's and First Officer's seats, which could result in electrical arcing and consequent smoke and/or fire in the cockpit, accomplish the following:

Relocation of Mod Block Tracks

(a) Within 1 year after the effective date of this AD, relocate the mod block tracks on the flight compartment floor beams in the avionics compartment beneath the Captain's and First Officer's seats, per Boeing Alert Service Bulletin MD–1124A036, Revision 01, dated May 21, 2001.

Note 2: Accomplishment of the relocation per McDonnell Douglas Service Bulletin MD11–24–036, dated May 8, 1992, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin MD11–24A036, Revision 01, dated May 21, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17534 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–61–AD; Amendment 39–12808; AD 2002–14–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires an inspection to detect discrepancies of the wire bundles in the avionics compartment in the vicinity of the pedestal extension area of the First Officer's seat; and corrective actions, if necessary. This action is necessary to prevent chafing of wiring in the avionics compartment, which could result in electrical arcing and consequent smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50884). That action proposed to require an inspection to detect discrepancies of the wire bundles in the avionics compartment in the vicinity of the

pedestal extension area of the First Officer's seat; and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Change to Applicability

The FAA finds that Model MD–11F airplanes were not specifically identified by model in the applicability of the supplemental NPRM; however, they were identified by manufacturer's fuselage numbers in Boeing Alert Service Bulletin MD11–23A046, Revision 01, dated May 21, 2001 (which was referenced in the applicability statement of the NPRM for determining the specific affected airplanes). Therefore, we have revised the final rule to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, we have revised the applicability of the final rule to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Change to Inspection Definition

For clarification purposes, the FAA has revised the definition of a ''general visual inspection'' in Note 2 of this final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 118 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 48 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,880, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–08 McDonnell Douglas: Amendment 39–12808. Docket 2001–NM–61–AD.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Alert Service Bulletin MD11–23A046, Revision 01, dated May 21, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of wiring in the avionics compartment, which could result in electrical arcing and consequent smoke and/or fire in the cockpit, accomplish the following:

(a) Within 1 year after the effective date of this AD, do a general visual inspection to detect discrepancies (*i.e.,* chafing, improper routing or bundle support, missing tie wraps, improper clearance) of wire bundles in the avionics compartment in the vicinity of the pedestal extension area of the First Officer's seat, per the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–23A046, Revision 01, dated May 21, 2001. If any discrepancy is detected, before further flight, perform the applicable corrective actions (i.e., repair, replacement of damaged wires with new wires, reroute wire bundle, and tie wrap bundle) per the Accomplishment Instructions of the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: Accomplishment of the inspections and corrective actions, if necessary, per McDonnell Douglas Service Bulletin MD11–23–046, dated March 17, 1995, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests

through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin MD11–23A046, Revision 01, dated May 21, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17535 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–63–AD; Amendment 39–12809; AD 2002–14–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and MD–11F airplanes, that currently requires replacement of the existing terminal strips and supports above the main cabin area; and installation of spacers between terminal strips and mounting brackets in the avionics compartment; as applicable. This amendment requires replacing the applicable terminal strips in the avionics compartment with new terminal strips. This amendment also requires performing an inspection to detect arcing damage of the surrounding structure of the terminal strips and electrical cables in the avionics compartment, and repairing or replacing any damaged component with a new component. This amendment is prompted by reports of arcing between the power feeder cables and support brackets of the terminal strips on airplanes previously modified per the existing AD. The actions specified by this AD are intended to prevent electrical arcing caused by power feeder cable terminal lugs grounding against terminal strip support brackets, which could result in smoke and fire in the main cabin or avionics compartment.

DATES: Effective August 23, 2002.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A178, Revision 01, dated December 17, 2001, as listed in the regulations, is approved by the Director of the Federal Register as of August 23, 2002.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 23, 2000 (65 FR 8025, February 17, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–03–15, amendment 39–11574 (65 FR 8025, February 17, 2000), which is applicable to certain McDonnell Douglas Model MD–11 and MD–11F airplanes, was published in the **Federal Register** on October 5, 2001 (66 FR 50882). The action proposed to continue to require replacing the existing terminal strips and supports above the main cabin at station Y=5–32.000 with new terminal strips and supports. The action also proposed to replace the applicable terminal strips in the avionics compartment with new terminal strips. The action also proposed to require performing an inspection to detect arcing damage of the surrounding structure of the terminal strips and electrical cables in the avionics compartment, and repairing or replacing any damaged component with a new component.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Relevant New Service Bulletin

Since issuance of the NPRM, the FAA has reviewed and approved Revision 01 of McDonnell Douglas Alert Service Bulletin MD11–24A178, dated December 17, 2001. Revision 01 of the service bulletin is essentially identical to the original version of the service bulletin (which was referenced in the notice of proposed rulemaking (NPRM) as an appropriate source of service information), but provides clarification of a manual required to accomplish a continuity test and corrects the quantity of washers and a certain item number. We have revised the final rule to reference Revision 01 of the service bulletin as the appropriate source of service information for accomplishing the new actions required by this AD. We

also have included a new Note 3 to give operators credit for accomplishing those actions per the original version of the service bulletin.

Explanation of Change to Applicability

The FAA has revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 133 Model MD–11 and –11F airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A178, Revision 01, dated December 17, 2001, of the affected design in the worldwide fleet. The FAA estimates that 52 airplanes of U.S. registry will be affected by this AD.

The new actions that are required in this AD action will take approximately 3 (for Group 1 airplanes) and 4 (for Group 2 airplanes) work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,142 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $1,322 (for Group 1 airplanes) and $1,382 (for Group 2 airplanes) per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

Currently, there are no Model MD–11 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it will require approximately 1 work hour to accomplish the replacement currently required by AD 2000–03–15, and retained in this AD, at an average labor rate of $60 per work hour. The cost of required parts will be $885. Based on these figures, the cost impact of this AD for this replacement will be $945 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11574 (65 FR 8025, February 17, 2000), and by adding a new airworthiness directive (AD), amendment 39–12809, to read as follows:

2002–14–09 McDonnell Douglas: Amendment 39–12809. Docket 2001–NM–63–AD. Supersedes AD 2000–03–15, Amendment 39–11574.

Applicability: Model MD–11 and MD–11F airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999; and McDonnell Douglas Alert Service Bulletin MD11–24A178, Revision 01, dated December 17, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing caused by power feeder cable terminal lugs grounding against terminal strip support brackets, which could result in smoke and fire in the main cabin or avionics compartment, accomplish the following:

Restatement of Certain Requirements of AD 2000–03–15

Replacement of Terminal Strips and Supports

(a) For airplanes listed in the effectivity of McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, on which the modification specified in McDonnell Douglas Service Bulletin MD11–24–085, dated August 1, 1995, has not been accomplished: Within 1 year after March 23, 2000 (the effective date of AD 2000–03–15, amendment 39–11574), replace the existing terminal strips and supports above the main cabin at station Y=5–32.000 with new terminal strips and supports in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999.

New Actions Required by This AD

Replacement, Inspection, and Corrective Action If Necessary

(b) For airplanes listed in the effectivity of McDonnell Douglas Alert Service Bulletin MD11–24A178, Revision 01, dated December 17, 2001: Within 18 months after the effective date of this AD, do the actions specified in paragraphs (b)(1) and (b)(2) of this AD per the service bulletin.

(1) Replace the applicable terminal strips in the avionics compartment with new terminal strips (including inspecting wires

for damage, repairing any damaged wire, and removing the nameplate); and

(2) Perform a general visual inspection to detect arcing damage of the surrounding structure of the terminal strips and electrical cables in the avionics compartment. If any damage is detected, before further flight, repair or replace any damaged component with a new component, per the service bulletin; except if the type of structural material of the surrounding structure that has been affected is not covered in the Structural Repair Manual, repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: Accomplishment of the replacement, inspection, and corrective action, before the effective date of this AD, per McDonnell Douglas Alert Service Bulletin MD11–24A178, dated May 14, 2001, is considered acceptable for compliance with the applicable actions specified in this amendment.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(e) Except as provided by paragraph (b)(2) of this AD, the actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999; and McDonnell Douglas Alert Service Bulletin MD11–24A178, Revision 01, dated December 17, 2001; as applicable.

(1) The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A178, Revision 01, dated December 17, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A150, dated March 25, 1999, was approved previously by the Director of the Federal Register as of March 23, 2000 (65 FR 8025, February 17, 2000).

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17536 Filed 7–18–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–64–AD; Amendment 39–12810; AD 2002–14–10]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes Equipped With United Technologies Pratt & Whitney Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires replacing the wire harness support bracket of the integrated drive generator (IDG) of the forward engine mounts with a new support bracket, and modifying the angle of the bracket near the oil filter. The actions specified by this AD are intended to prevent arcing of the IDG wire harness, which could result in smoke and/or fire in the area of the forward engine mount bolt retainer and/or fire detector responder. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50880). That action proposed to require replacing the wire harness support bracket of the integrated drive generator of the forward engine mounts with a new support bracket, and modifying the angle of the bracket near the oil filter.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Explanation of Change to Applicability

The FAA has revised the applicability of the existing AD to identify model designations as published in the most

recent type certificate data sheet for the affected models.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 195 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 67 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the engine manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $12,060, or $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–10 McDonnell Douglas: Amendment 39–12810. Docket 2001–NM–64–AD.

Applicability: Model MD–11 and –11F airplanes, certificated in any category; equipped with United Technologies Pratt & Whitney Model PW4460 or PW4462 engines, engine buildup units having neutral quick engine change, cum units 4 through 240 inclusive and serial numbers 5166001 through 5213003 inclusive.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing of the integrated drive generator (IDG) wire harness, which could result in smoke and/or fire in the area of the forward engine mount bolt retainer and/or fire detector responder, accomplish the following:

Replacement and Modification

(a) Within 1 year after the effective date of this AD, replace the wire harness support bracket of the IDG of the forward engine mounts with a new support bracket, and modify the angle of the bracket near the oil filter (i.e., cut and grind flanges, deburr edges, fusion weld flanges, and reidentify bracket), per Boeing Alert Service Bulletin MD11–71A086, Revision 01, dated May 21, 2001.

Note 2: Boeing Alert Service Bulletin MD11–71A086 references United Technologies Pratt & Whitney Service Bulletin PW4MD11 71–107, dated May 15, 1996, as an additional source of service information for accomplishing the proposed replacement and modification.

Spares

(b) As of the effective date of this AD, no United Technologies Pratt & Whitney Model PW4460 or PW4462 engines, engine buildup units having neutral quick engine change, cum units 4 through 240 inclusive and serial numbers 5166001 through 5213003 inclusive, shall be installed on any airplane unless the requirements of paragraph (a) of this AD have been done.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

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

Incorporation by Reference

(e) The replacement and modification shall be done in accordance with Boeing Alert Service Bulletin MD11–71A086, Revision 01, dated May 21, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17529 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–65–AD; Amendment 39–12811; AD 2002–14–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires replacing the ground support bracket(s); and rerouting the ground cables of the galley external power and main external power, or ground cables of the main external power; as applicable. This amendment requires a general visual inspection of the ground cables of the main external power and galley external power for excessive length, as applicable; and corrective actions, if necessary. This amendment is prompted by the FAA's determination that currently required actions may not adequately address the identified unsafe condition. The actions specified by this AD are intended to prevent arcing and heat damage to the attachment points of the main external and galley power receptacle ground wire, insulation blankets outboard and aft of the receptacle area, and adjacent power cables, which could result in smoke and fire in the forward cargo compartment.

DATES: Effective August 23, 2002.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A138, Revision 01, dated June 5, 2001, as listed in the regulations, is approved by the Director of the Federal Register as of August 23, 2002.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A138, dated April 3, 2000, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 8, 2001 (65 FR 75616, December 4, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–24–13, amendment 39–12020 (65 FR 75616, December 4, 2000), which is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, was published in the **Federal Register** on October 5, 2001 (66 FR 50877). The action continues to require replacing the ground support bracket(s); and rerouting the ground cables of the galley external power and main external power, or ground cables of the main external power; as applicable. The action proposed to require a general visual inspection of the ground cables of the main external power and galley external power for excessive length, as applicable; and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Change to Applicability

The FAA finds that Model MD–11 and –11F airplanes were not specifically identified by model name in the applicability of the proposed AD. However, those airplanes were identified by manufacturer's fuselage numbers in the effectivity listing of McDonnell Douglas Alert Service Bulletin MD11–24A138, Revision 01, dated June 5, 2001, which was referenced in the applicability of the proposed AD. Therefore, we have revised this AD to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Change to Inspection Definition

For clarification purposes, the FAA has revised the definition of a ''general visual inspection'' in Note 2 of this final rule.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described above. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 149 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 59 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 2000–24–13, and retained in this amendment, take approximately 1 work hour (for Group 1 airplanes) or 2 work hours (for Group 2 airplanes) per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts cost approximately $337 (for Group 1 airplanes) or $647 (for Group 2 airplanes) per airplane. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $397 (for Group 1 airplanes) or $767 (for Group 2 airplanes), per airplane.

The new actions that are required by this AD action will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this

AD is estimated to be $3,540, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–12020 (65 FR 75616, December 4, 2000), and by adding a new airworthiness directive (AD), amendment 39–12811, to read as follows:

2002–14–11 McDonnell Douglas: Amendment 39–12811. Docket 2001–NM–65–AD. Supersedes AD 2000–24–13, Amendment 39–12020.

Applicability: Model MD–11 and –11F airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A138, Revision 01, dated June 5, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing and heat damage to the attachment points of the main external and galley power receptacle ground wire, insulation blankets outboard and aft of the receptacle area, and adjacent power cables, which could result in smoke and fire in the forward cargo compartment, accomplish the following:

Replacement and Rerouting

(a) Within 12 months after January 8, 2001 (the effective date of AD 2000–24–13, amendment 39–12020), accomplish the actions specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A138, dated April 3, 2000, or Revision 01, dated June 5, 2001. As of the effective date of this AD, only Revision 01 of the service bulletin shall be used.

(1) For Group 1 airplanes listed in the original version of the service bulletin, excluding fuselage number 0456: Replace the ground support brackets with new brackets and reroute the ground cables of the galley external power and main external power.

(2) For Group 2 airplanes listed in the original version of the service bulletin and fuselage number 0456: Replace the ground support bracket and reroute the ground cables of the main external power.

Inspection and Corrective Actions, If Necessary

(b) Within 12 months after the effective date of this AD, accomplish the actions specified in paragraph (b)(1) or (b)(2) of this AD, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A138, Revision 01, dated June 5, 2001.

(1) For Group 3 airplanes listed in Revision 01 of the service bulletin: Do a general visual inspection of the ground cables of the main external power and galley external power for excessive length. If any cable length is excessive, before further flight, do applicable corrective actions (e.g., cut cable assembly to correct length and install a terminal on the cut end of the cable) per Condition 2 of Figure 3 of the service bulletin.

(2) For Group 4 airplanes listed in Revision 01 of the service bulletin: Do a general visual inspection of the ground cables of the main external power for excessive length. If any cable length is excessive, before further flight, do applicable corrective actions (e.g., cut cable assembly to correct length and install a terminal on the cut end of the cable) per Condition 2 of Figure 4 of the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A138, dated April 3, 2000, or McDonnell Douglas Alert Service Bulletin MD11–24A138, Revision 01, dated June 5, 2001; as applicable.

(1) This incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A138, Revision 01, dated June 5, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–24A138, dated April 3, 2000, was approved previously by the Director of the Federal Register as of January 8, 2001 (65 FR 75616, December 4, 2000).

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17530 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–157–AD; Amendment 39–12812; AD 2002–14–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires an inspection of the wiring in the fuel control panel of the wings for chafing damage and for proper routing of the wiring; and corrective action(s), if necessary. This action is necessary to prevent chafing of the wiring in a cutout area in the wing fuel control panel due to improperly routed wiring, which could result in electrical arcing in an abnormal fuel vapor zone and consequent possible ignition of the fuel vapor. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50875). That action proposed to require an inspection of the wiring in the fuel control panel of the wings for chafing damage and for proper routing of the wiring; and corrective action(s), if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Change to Applicability

The FAA finds that Model MD–11F airplanes were not specifically identified by model name in the applicability of the proposed AD. However, those airplanes were identified by manufacturer's fuselage numbers in the effectivity listing of Boeing Alert Service Bulletin MD11–28A058, Revision 01, dated March 29, 2001, which was referenced in the applicability of the proposed AD. Therefore, we have revised this AD to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Change to Inspection Definition

For clarification purposes, the FAA has revised the definition of a ''general visual inspection'' in Note 2 of this final rule.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 78 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 30 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,800, or $60 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–12 McDonnell Douglas: Amendment 39–12812. Docket 2001–NM–157–AD.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Alert Service Bulletin MD11–28A058, Revision 01, dated March 29, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the wiring in a cutout area in the wing fuel control panel due to improperly routed wiring, which could result in electrical arcing in an abnormal fuel vapor zone and consequent possible ignition of the fuel vapor, accomplish the following:

Inspection and Corrective Action, If Necessary

(a) Within 6 months after the effective date of this AD, do a general visual inspection of the wiring in the fuel control panel of the wings for chafing damage and for proper routing of the wiring, per Boeing Alert Service Bulletin MD11–28A058, Revision 01, dated March 29, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) Condition 1. If no chafing damage is found and if the wiring is NOT routed into the cutout area of the fuel control panel, no further work is required by this AD.

(2) Condition 2. If no chafing damage is found and if the wiring is routed into the cutout area of the fuel control panel, before further flight, revise the wire routing out of the cutout area in the fuel control panel, per the service bulletin.

(3) Condition 3. If any chafing damage is found and if the wiring is routed into the cutout area of the fuel control panel, before further flight, replace any damaged wire with a new wire, and revise the wire routing out of the cutout area in the fuel control panel, per the service bulletin.

Note 3: Accomplishment of the actions specified in McDonnell Douglas service Bulletin MD11–28–058, dated January 3, 1995, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin MD11–28A058, Revision 01, dated March 29, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17531 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–158–AD; Amendment 39–12813; AD 2002–14–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires installing a clipnut and bracket and revising the routing of the wire assembly of the forward lower cargo door. This action is necessary to prevent failure of the wire assemblies and damage of a ballast of a

light fixture, and consequent smoke and/or fire in the forward cargo compartment. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50873). That action proposed to require installing a clipnut and bracket and revising the routing of the wire assembly of the forward lower cargo door.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Revise the Cost Impact

One commenter, the airplane manufacturer, notes that the Cost Impact section of the proposed AD states, ''The manufacturer has committed previously to its customers that it will bear the cost of replacement parts.'' The commenter states that this is not quite accurate. The commenter notes that in ''2.B. Industry Support Information'' of the referenced service bulletin (i.e., Boeing Alert Service Bulletin MD11–52A035, Revision 02, dated March 12, 2001), it states, ''Boeing warranty remedies are available for airplanes in warranty as of February 5, 1997.''

The FAA infers that the commenter is requesting that the Cost Impact section be revised to correctly address warranty remedies. We concur. We have revised the final rule to specify the cost of the required parts and to clarify that required parts will be provided at no charge for affected airplanes within the warranty period.

Request To Revise Incorrect Service Bulletin Reference

One commenter requests that a typographical error be corrected in Note 2 of the proposed AD. The commenter states the correct service bulletin reference should be ''MD11–52–035,'' not ''MD11–52–034.'' The FAA concurs and has revised the final rule accordingly.

Explanation of Change to Applicability

The FAA finds that Model MD–11F airplanes were not specifically identified by model name in the applicability of the proposed AD. However, those airplanes are identified by manufacturer's fuselage numbers in the effectivity listing of Boeing Alert Service Bulletin MD11–52A035, Revision 02, dated March 12, 2001, which was referenced in the applicability of the proposed AD. Therefore, we have revised this AD to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, the FAA has revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 157 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 61 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $7,320, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. However, for affected airplanes within the period under the warranty agreement, the FAA has been advised that the manufacturer has committed previously to its customers that it will bear the cost of replacement parts.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–13 McDonnell Douglas: Amendment 39–12813. Docket 2001–NM–158–AD.

Applicability: Model MD–11 and –11F airplanes, as listed in Boeing Alert Service Bulletin MD11–52A035, Revision 02, dated March 12, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the wire assemblies and damage of a ballast of a light fixture, and consequent smoke and/or fire in the forward cargo compartment, accomplish the following:

Installation of Clipnut and Bracket and Revision of Routing of Wiring

(a) Within 1 year after the effective date of this AD, install a clipnut and bracket and revise the routing of the wire assembly of the forward lower cargo door, per Boeing Alert Service Bulletin MD11–52A035, Revision 02, dated March 12, 2001.

Note 2: Accomplishment of the actions specified in McDonnell Douglas Service Bulletin MD11–52–035, Revision 01, dated March 9, 1998, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin MD11–52A035, Revision 02, dated March 12, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17532 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–159–AD; Amendment 39–12814; AD 2002–14–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes Equipped With General Electric Tail Engine Buildup Units (EBU)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes that requires installation of a new support bracket with a clamp and screw to support the wire harness of the integrated drive generator (IDG). This action is necessary to prevent chafing and arcing of the wire harness of the IDG due to inadequate support, which could result in smoke and/or fire in the area of the forward engine mount. This action is intended to address the identified unsafe condition.

DATES: Effective August 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on October 5, 2001 (66 FR 50872). That action proposed to require installation of a new support bracket with a clamp and screw to support the wire harness of the integrated drive generator (IDG).

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed AD.

Explanation of Change to Applicability

The FAA finds that Model MD–11F airplanes were not specifically identified by model name in the applicability of the proposed AD. However, those airplanes were identified by manufacturer's fuselage numbers in the effectivity listing of Boeing Alert Service Bulletin MD11–24A095, Revision 01, dated March 16, 2001, which was referenced in the applicability of the proposed AD. Therefore, we have revised this AD to specifically reference Model MD–11 and –11F airplanes where appropriate. In addition, we have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models and to specifically identify that the affected airplanes are equipped with General Electric tail engine buildup units (EBU).

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 195 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 67 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by Rohr, Inc., at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,020, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–14–14 McDonnell Douglas: Amendment 39–12814. Docket 2001–NM–159–AD.

Applicability: Model MD–11 and –11F airplanes equipped with General Electric tail engine buildup units (EBU), as listed in Boeing Alert Service Bulletin MD11–24A095, Revision 01, dated March 16, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and arcing of the wire harness of the integrated drive generator (IDG) due to inadequate support, which could result in smoke and/or fire in the area of the forward engine mount, accomplish the following:

Installation of New Support Bracket

(a) Within 1 year after the effective date of this AD, install a new support bracket with a clamp and screw to support the wire harness of the IDG, per Boeing Alert Service Bulletin MD11–24A095, Revision 01, dated March 16, 2001.

Note 2: Accomplishment of the installation per McDonnell Douglas Service Bulletin MD11–24–095, dated January 29, 1996, before the effective date of this AD, is considered acceptable for compliance with the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The installation shall be done in accordance with Boeing Alert Service Bulletin MD11–24A095, Revision 01, dated March 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 23, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17533 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–33–AD; Amendment 39–12815; AD 2002–14–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires an inspection of the powered drive unit power wires within three feet of each affected powered drive unit termination for mechanical damage; and repair, if necessary. That AD also currently requires revising the wire harnesses; splicing any additional length wire; routing and installing parts; and replacing the floor panels with new and retained floor panels. This amendment revises the existing requirements by improving the routing of the wire harnesses. This amendment is prompted by the FAA's determination that the currently required modification does not adequately preclude the identified unsafe condition. The actions specified in this AD are intended to ensure that the powered roller pans are positioned properly. Improperly positioned powered roller pans could pierce a powered roller wire harness and cause sparking that could ignite adjacent insulation material, which could result in smoke and fire in the center cargo compartment of the airplane.

DATES: Effective August 5, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 2002.

Comments for inclusion in the Rules Docket must be received on or before September 17, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–33–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–33–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: On July 14, 2000, the FAA issued AD 2000–14–18, amendment 39–11829 (65 FR 46199, July 27, 2000), applicable to certain McDonnell Douglas Model MD–11 series airplanes, to require an inspection of the powered drive unit power wires within three feet of each affected powered drive unit (PDU) termination for mechanical damage; and repair, if necessary. That AD also requires revising the wire harnesses; splicing any additional length wire; routing and installing parts; and replacing the floor panels with new and retained floor panels. That action was prompted by an incident in which a fire occurred in the center cargo compartment during loading. The actions required by that AD are intended to ensure that the powered roller pans are positioned properly. Improperly positioned powered roller pans could pierce a powered roller wire harness and cause sparking that could ignite adjacent insulation material, which could result in smoke and fire in the center cargo compartment of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 2000–14–18, the FAA, in conjunction with Boeing, has determined that McDonnell Douglas Service Bulletin MD11–25A227, dated January 27, 2000 (which is referenced in AD 2000–14–18 as the appropriate source of service information) does not

adequately specify procedures for routing the wire harness for the position 6L PDU through the sump bulkhead at station 1761.00. Therefore, the requirements of that AD do not adequately preclude the identified unsafe condition.

Explanation of New Service Information

We have reviewed and approved Revision 01 of McDonnell Douglas Alert Service Bulletin MD11–25A227, dated October 31, 2001, which provides new instructions for routing the wire harness for the position 6L PDU through the sump bulkhead at station 1761.00. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of AD Applicability

We have specified model designations in the applicability of this proposed AD as published in the most recent type certificate data sheet for the affected models. These model designations differ in the referenced service bulletin.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 2000–14–18 to require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

None of the Model MD–11 and –11F airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require between 2 and 3 work hours (depending on the configuration of the airplane) to accomplish the required actions, at an average labor rate of $60 per work hour. Parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this AD would be between $120 and $180 per airplane. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–33–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11829 (65 FR 46199, July 27, 2000), and by adding a new airworthiness directive (AD), amendment 39–12815, to read as follows:

2002–14–15 McDonnell Douglas: Amendment 39–12815. Docket 2002–NM–33–AD. Supersedes AD 2000–14–18, Amendment 39–11829.

Applicability: Model MD–11 and –11F airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–25A227, Revision 01, dated October 31, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the powered roller pans are positioned properly, accomplish the following:

(a) Within 18 months after the effective date of this AD, accomplish the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD per McDonnell Douglas Alert Service Bulletin MD11–25A227, Revision 01, dated October 31, 2001.

Inspection

(1) Perform a general visual inspection of the powered drive unit power wires within three feet of each affected powered drive unit termination for mechanical damage. If any damaged wire is detected, before further flight, repair the damaged wire.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Revise Wire Harnesses, Splice Wire, and Route and Install Parts

(2) Revise the wire harnesses, splice any additional length wire, and route and install parts.

Replacement

(3) Replace the floor panels with new and retained floor panels.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A227, Revision 01, dated October 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 5, 2002.

Issued in Renton, Washington, on July 2, 2002.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17525 Filed 7–18–02; 8:45 am]

BILLING CODE 4910–13–P

Federal Register

Friday,
July 19, 2002

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Program Announcment for the National Training and Technical Assistance Program for Tribal Youth Grantees, American Indian Tribes, and Alaska Native Communities; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1360]

Program Announcement for the National Training and Technical Assistance Program for Tribal Youth Program Grantees, American Indian Tribes, and Alaska Native Communities

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is requesting applications for the National Training and Technical Assistance Program for Tribal Youth Program Grantees, American Indian Tribes, and Alaska Native Communities. The recipient of this award will provide training and technical assistance to enhance the capacity of Tribal Youth Program grantees and American Indian and Alaska Native communities to develop and implement comprehensive systemwide approaches that prevent, reduce, and control juvenile delinquency, thereby increasing the overall safety of tribal communities.

DATES: Applications must be received by September 3, 2002.

Application Kit: Interested applicants can obtain the *OJJDP Application Kit* by calling the Juvenile Justice Clearinghouse at 800–638–8736, by sending an e-mail request to *puborder@ncjrs.org,* or through fax-on-demand. (For fax-on-demand, call 800–638–8736, select option 1, then select option 2 and enter the following four-digit numbers: 9119, 9120, 9121, and 9122. Application kits will be faxed in four sections because of the number of pages.) The *Application Kit* is also available online at *www.ncjrs.org/pdffiles1/ojjdp/s1000480.pdf.*

Delivery Instructions: All applicants must submit the original application (signed in blue ink) and five copies. Applications should be unbound and fastened by a binder clip in the top left-hand corner. (*See* ''Delivery Instructions'' below for additional information.)

OJJDP strongly recommends that applicants number each page of the application. To ensure that applications are received by the due date, applicants should use a mail service that documents the date of receipt. Because OJJDP anticipates sending applicants written notification of application receipt approximately 4 weeks after the solicitation closing date, applicants are encouraged to use a traceable shipping method. Faxed or e-mailed applications will not be accepted. Postmark dates will not be accepted as proof of meeting the deadline. Applications received after September 3, 2002, will be deemed late and may not be accepted. The closing date and time apply to all applications. To ensure prompt delivery, please adhere to the following guidelines:

Applications sent by U.S. mail: Use registered mail to send applications to the following address: Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850. In the lower left-hand corner of the envelope, clearly write ''Tribal Training and Technical Assistance Program.''

Applications sent by overnight delivery service: Allow at least 48 hours for delivery. Send applications to the following address: Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 800–638–8736 (phone number required by some carriers). In the lower left-hand corner of the envelope, clearly write ''Tribal Training and Technical Assistance Program.''

Applications delivered by hand: Deliver by September 3, 2002, to the Juvenile Justice Resource Center, 2277 Research Boulevard, Rockville, MD 20850; 301–519–5535. Hand deliveries will be accepted daily between 8:30 a.m. and 5 p.m., ET, excluding Saturdays, Sundays, and Federal holidays. Entrance to the resource center requires proper photo identification.

FOR FURTHER INFORMATION, CONTACT: Jayme S. Marshall, Training and Technical Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 202–616–7614. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of the National Training and Technical Assistance Program for Tribal Youth Program Grantees, American Indian Tribes, and Alaska Native Communities (hereafter referred to as the Tribal Training and Technical Assistance Program) is to provide training and technical assistance to the grantees of the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) Tribal Youth Program (TYP); American Indian tribes, as defined in 25 U.S.C. 450(b)e; and Alaska Native communities (hereafter collectively referred to as tribal communities). The Tribal Training and Technical Assistance Program is designed to help tribal communities develop comprehensive, systemic approaches to reducing juvenile delinquency, violence, and child victimization and to increasing the safety of tribal communities.

Background

Although, in general, U.S. crime rates have been decreasing, self-reported data from crime victims indicate that the 1.9 million American Indians living in the United States are victims of violent crime at more than twice the rate of other U.S. residents.[1] In recent years, as the American Indian population has expanded, youth violence in tribal communities has grown. Of particular concern to American Indian tribes and OJJDP is the increasing number of violent crimes committed by juveniles in tribal communities, and research shows that this concern is warranted. For example, the Bureau of Justice Statistics has reported the following findings:

- In more than two-thirds of cases involving family violence, the assailant was under the influence of alcohol.[2]
- According to 1995 data, there was approximately 1 substantiated report of child abuse or neglect for every 30 American Indian children age 14 or younger. For all races, the rate was approximately 1 report of abuse for every 58 children.
- For alcohol-related offenses, including driving under the influence, liquor law violations, and public drunkenness, the arrest rate for American Indians was more than double that for all other races.[3]
- American Indians younger than 18 were incarcerated for alcohol-related offenses at twice the national rate.[4]
- Between 1996 and 2001, the number of American Indian inmates in the custody of the Bureau of Prisons increased 84 percent (from 1,276 to 2,348 inmates). During that same time, the number of American Indian juveniles in Federal custody increased 82 percent (from 103 to 187 inmates).

American Indian tribes and Alaska Native communities need comprehensive approaches to prevent juvenile delinquency and to improve tribal juvenile justice systems. With this goal in mind, OJJDP is supporting innovative programs, creative strategies,

[1] Greenfeld, L.A., and Smith, S. 1999. *American Indians and Crime.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

[2] *Id.* at 10.

[3] *Id.* at vii.

[4] *Id.* at 25.

and culturally appropriate programming to assist tribal youth and their families.

Authorization of Appropriations

OJJDP is authorized to fund the Tribal Training and Technical Assistance Program through the FY 2002 Commerce, Justice, and State Appropriations Act, Pub. L. 107–77, which appropriated $472 million to support and enhance tribal efforts to prevent and control delinquency and to improve the juvenile justice system for tribal youth. Of the $472 million appropriated, $1.25 million will support program-related research, evaluation, and statistics; $250,000 will provide training and technical assistance to tribal programs; $8 million will be used for discretionary grants; $1 million will fund programs that support the TYP Mental Health Initiative; and the remaining funds will be used to enhance other tribal efforts and TYP support. An additional $550,000 of Part C Discretionary Funds will supplement the $250,000 for the general technical and training assistance budget to ensure that American Indian tribes other than TYP grantees have access to and receive services that address comprehensive delinquency prevention and control for juvenile justice system improvement.

Tribal Youth Program and Other Juvenile Justice Activities in Indian Country

OJJDP supports several programs that help tribal communities address juvenile crime. TYP funds enable tribal communities to develop programs that prevent and control juvenile delinquency, reduce violent crime, and improve tribal juvenile justice systems. TYP grant recipients, who receive funds directly from OJJDP, and are required to use their grant funds to implement programs within one or more of the five categories that are listed under ''Performance Measurement.''

OJJDP encourages TYP grantees to design culturally based programs and to incorporate traditional practices, where appropriate. When designing juvenile delinquency prevention, intervention, and system improvement activities, grantees are asked to consider the roles of children, parents, and elders in their communities. OJJDP also recommends that grantees involve tribal youth when planning and implementing program activities. Because each tribe is unique, TYP grantees differ in their approaches, needs, and regional perspectives (*e.g.,* rural, rural remote, or urban). Grantees also vary by the size of their service populations, which range from 2,000 or fewer individuals who reside on or near a reservation to 10,000 or more residents.

Another OJJDP initiative that assists tribal communities is the Comprehensive Indian Resources for Community and Law Enforcement (CIRCLE) Program. Through CIRCLE, OJJDP provides financial support and technical assistance to participating tribal governments (the Oglala Sioux Tribe, the Northern Cheyenne Tribe, and the Pueblo of Zuni) for juvenile delinquency prevention and control programs; crime prevention efforts; victim services; effective community policing services; criminal investigation; prosecutorial, tribal court, and probation services; and detention and alternative sentencing programs. Tribes also have been active in other OJJDP initiatives, including the Juvenile Mentoring Program, Safe Schools/Healthy Students, and the Enforcing the Underage Drinking Laws Program.

In addition, OJJDP has funded a number of other innovative solutions to combat juvenile delinquency and crime in Indian Country. Varied in design, these culturally based programs provide interventions for court-involved youth and their families, improve tribal justice systems, and provide prevention programs that focus on alcohol and other drugs.

Initially funded in fiscal year (FY) 1998, the Tribal Youth Training and Technical Assistance Program provides services to TYP grantees and other tribal communities. During the program's first 4 years of operation, requests for training and technical assistance steadily increased, to over 120 requests in 2001. The programmatic areas that generated the most requests were juvenile justice system improvement, substance abuse prevention, reentry programs, family strengthening, conflict resolution, indigenous justice, gang prevention, and delinquency prevention.

Goal

The goal of the Tribal Training and Technical Assistance Program is to enhance the capacity of TYP grantees and American Indian and Alaska Native communities to develop and implement comprehensive systemwide approaches that prevent, reduce, and control juvenile delinquency, thereby increasing the overall safety of tribal communities.

Objectives

The objectives of this training and technical assistance program are as follows:

- To assess the national training and technical assistance needs of tribal communities related to juvenile justice and delinquency prevention and to recommend a delivery strategy to OJJDP.
- To develop, implement, and enhance training, technical assistance, and evaluation materials and activities.
- To provide technical assistance to TYP grantees and American Indian and Alaska Native communities that builds their capacity to assess tribal needs, conduct strategic planning, implement appropriate programs, and evaluate program effectiveness.
- To provide tribes with local and regional training that will enhance their knowledge and skills.
- To create and maintain a Web-based, technical assistance system capable of managing all aspects of a state-of-the-art technical assistance and training program.
- To develop guidance documents and products that support the capacity building of TYP grantees and American Indian and Alaska Native communities.

Performance Measurement

To ensure compliance with the Government Performance and Results Act (GPRA), Pub. L. 103–62, this solicitation notifies applicants that they are required to collect and report on data that measure the results of the program implemented by this grant. To ensure the accountability of this data (for which the Office of Justice Programs [OJP] is responsible), the following performance measures are provided.

The grantee will report on the number of training and technical assistance deliveries provided to tribes that are implementing programs within the following categories:

- Category I: To reduce, control, and prevent crime and other delinquent acts committed by and against tribal youth.
- Category II: To provide interventions for court-involved tribal youth.
- Category III: To improve tribal juvenile justice systems.
- Category IV: To provide prevention programs that focus on alcohol and drugs.
- Category V: To address the need for comprehensive mental health services for American Indian and Alaska Native youth.

In addition, the grantee will be responsible for:

1. The annual number of onsite training sessions delivered to tribes.
2. The annual number of technical assistance deliveries provided to tribes.
3. A specific number of products (*e.g.,* handbooks, publications, toolkits) developed to enhance and/or transfer knowledge to and build the capacity of tribes by identifying best practices for

the field. The grantee will be responsible for tracking these products.

Should program expansion or a formal evaluation be undertaken in the future, performance data collected will provide crucial baseline information regarding the efforts of the Tribal Training and Technical Assistance Program. Assistance in obtaining this information will facilitate future program planning and will allow OJP to provide Congress with measurable program results of federally funded programs.

Program Strategy

OJJDP will competitively select an organization to implement the Tribal Training and Technical Assistance Program. A cooperative agreement will be awarded for a 4-year program period. Applicants must demonstrate (1) the ability to develop and direct an OJJDP-based training and technical assistance program; (2) expertise in juvenile justice; (3) a working knowledge of Federal, State, tribal, and local relations; (4) an understanding of how tribal governments relate to juveniles; (5) a working knowledge of law enforcement and tribal justice systems; and (6) an understanding of and sensitivity to the complexities of tribal culture and indigenous justice systems. Successful applicants must have substantial experience in producing, modifying, and/or updating a wide range of practical resource materials and curriculums. Also required is experience in assessing personnel and organizational training needs and in providing onsite technical assistance to address issues described in this solicitation.

The Tribal Training and Technical Assistance Program will provide services to support the development, planning, and implementation of innovative solutions that address juvenile delinquency in Indian Country. Through this program, TYP grantees and American Indian and Alaska Native communities will be able to receive assistance to develop or enhance their juvenile justice systems. This broad scope will enable the training and technical assistance provider to offer services to federally recognized tribes and tribal communities that are seeking to improve juvenile delinquency prevention programs or other juvenile justice services.

For many reasons, providing training and technical assistance to tribal communities can be challenging. As of 2002, there are 562 federally recognized American Indian tribes,[5] approximately half of which operate and manage their own juvenile justice systems. Other tribes may address juvenile justice and child welfare matters through arrangements with other tribal, county, and/or State juvenile justice systems, especially in jurisdictions governed by Pub. L. 83–280.[6] OJJDP expects the technical assistance provider to understand the importance and complexities of tribal culture and indigenous justice systems and to recognize that American Indian and Alaska Native communities may operate under very different systems of justice. For example, some tribes may have their own juvenile justice systems, whereas others may operate through local, county, or State systems. The training and technical assistance provider will often collaborate with several agencies to coordinate their efforts to address the needs of tribal communities.

As an additional challenge, many tribal communities are geographically isolated, and some can only be reached by unconventional methods of transportation. It is not uncommon, for example, to find tribal communities in Alaska that are accessible only by snowmobile, boat, or amphibious plane. Some tribal communities, even though they are located within the contiguous United States, can only be reached by driving several hundred miles on unpaved roads. Geographic isolation affects the level of services that are needed, such as access to information and technology. Tribes located near towns or urban areas are more likely to have access to current information and technology. Tribal officials in these areas also may find it easier to network with other tribal and juvenile justice practitioners.

Training and technical assistance needs vary considerably by tribe. Some tribes have been actively involved in delinquency prevention efforts and need assistance in improving their programs, whereas others are just beginning to address juvenile crime and need help starting the process to reform or develop their juvenile justice systems. In many tribal communities, access to educational opportunities is limited; community members often need basic training in report writing, grant writing, and program, project, and financial management.

In every case, training and technical assistance services must be provided in a culturally sensitive manner by individuals who understand and appreciate tribal history and customs, recognize the importance of indigenous justice systems, and understand juvenile justice issues. Given the various needs of, and services available in, tribal communities, the provider must be knowledgeable about a breadth of topics, including legal and social issues and promising programs that have proven effective with tribal youth. Successful applicants will be expected to build on the previous accomplishments and activities of the program and to institute a seamless transition. To ensure that quality services will be delivered to the greatest possible number of TYP grantees and American Indian and Alaska Native communities, OJJDP intends to select a training and technical assistance provider that has the knowledge and skills necessary to maximize the impact of the program.

Deliverables

In addition to the strategy and content of the program design, the following deliverables must be completed during year 1. Subsequent deliverables will be developed annually according to need and funding ability.

Year 1

- Develop a transition work plan that describes how data, materials, and processes from the current service provider will be incorporated into the new program approach, including the collaboration and interface needed during the startup phase.
- Develop a national needs assessment of federally recognized tribes using multiple approaches and translate the findings into a report entitled *Tribal Technical Assistance Needs: Recommended Response By Program Year.*
- Develop a strategic plan (including timelines, performance measures, and benchmarks for measuring internal progress) that specifies which activities will be conducted to achieve the program goals and objectives.
- Develop a program marketing plan that outlines the development of products and materials that will inform TYP grantees and American Indian and Alaska Native communities of the available training and technical assistance services.
- Develop training, technical assistance, and evaluation protocols based on the OJJDP Core Performance Standards to ensure consistency and quality of service delivery. These

[5] A complete list of the federally recognized tribes will be published in an upcoming issue of the **Federal Register**.

[6] In States governed by 18 U.S.C. 1162 (Pub. L. 280), such as California and Alaska, baseline law enforcement services are provided by the State, and American Indian tribes have concurrent authority over crimes by American Indians.

standards present the minimum expectations that must be met for effective practice in the planning, delivery, and evaluation of training and technical assistance. This resource and others are available through OJJDP's National Training and Technical Assistance Center *(www.nttac.org).*

• Develop a Web-based training and technical assistance tracking system that reports all technical assistance services (*i.e.,* offsite, onsite, multitribe) and includes online request functions, approval status, dates, locations, consultant selections, estimated costs, evaluation data, curriculums, and reports.

• Deliver a minimum of 200 working days of onsite technical assistance in response to site visit findings, grantee work plans, and direct requests made by tribes. (**Note:** A working day is defined as 6 hours of service.)

• Deliver a minimum of 300 working days of offsite technical assistance, including written, verbal, and electronic information and disseminated materials, as required.

• Deliver a minimum of 100 working days of multitribal technical assistance activities that involve the participation of clusters of tribes and others in information dissemination and sharing.

• Conduct 2 focus groups on topics to be determined for a minimum of 20 participants. (**Note:** Expenses for participant travel will be paid out of the service provider's budget.)

• Develop a minimum of four guidance documents or products about current issues, lessons learned from other tribes, current research, and other information that may help tribes improve their juvenile justice and delinquency prevention programs and systems.

• Develop marketing and informational materials about program services and events for distribution to TYP grantees and American Indian and Alaska Native communities.

• Provide logistical support, including expertise for the planning, implementation, and evaluation of an orientation conference for new grantees (a minimum of 80 participants).

• Provide logistical support, including expertise for the planning, implementation, and evaluation of 3 cluster meetings for TYP grantees (a minimum of 40 TYP grant participants per meeting).

• Conduct a minimum of four 2-day regional trainings on high-need topics for a minimum of 50 participants per site.

• Develop a database of tribal program profiles and program data elements that is capable of producing a wide array of special reports.

• Collect, study, review, and analyze the broad range of data and information obtained through this program, including grantee materials, site visit reports, technical assistance plans, technical assistance delivery reports, and proceedings of meetings and conferences.

• Coordinate with OJJDP to enhance and update the current TYP Web site to include distance learning and training technologies.

• Expand and update the listserv to maintain a system of monthly communications with tribes on current issues, funding possibilities, current research, and relevant information.

• Develop a directory of training and technical assistance experts who possess a variety of skills and abilities that are relevant to the tribal issues identified in the needs assessment. The experts used by the previous provider should be incorporated into the directory.

• Conduct a 2-day training of trainers, yielding a minimum of 25 experts, for delivering training and technical assistance services under this program. The training will cover policies, procedures, reporting, reimbursements, cultural considerations, and specific content areas. (**Note:** Expenses for participant travel will be paid out of the service provider's budget.)

• Analyze the training and technical assistance services and the evaluation results to prepare an annual report that recommends and prioritizes training and technical assistance services for year 2 and highlights unmet needs.

Applicants are encouraged to be realistic in estimating the cost of deliverables and in detailing the implementation schedule. Applicants also are encouraged to be innovative; OJJDP expects applicants to propose alternative approaches to the delivery of training and technical assistance to maximize resources.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, and individuals experienced in training and technical assistance efforts. Private, for-profit organizations must agree to waive any profit or fee. Joint applications from two or more eligible applicants are welcome; however, one applicant must be clearly designated as the primary applicant (for correspondence, award, and management purposes) and the others designated as co-applicants.

To be eligible for consideration, applicants must strictly adhere to the submission guidelines regarding page length, layout, and deadlines.

Selection Criteria

Applicants will be evaluated and rated by a peer review panel according to the criteria outlined below. Based on the highest scoring proposals, OJJDP may conduct onsite interviews with up to five applicants.

Problem(s) To Be Addressed (15 points)

Applicants must clearly demonstrate an understanding of training and technical assistance issues, the needs of tribal communities, and the issues relevant to tribal juvenile justice systems. Applicants must have a working knowledge of tribal government functions and law enforcement and tribal justice systems. In particular, applicants must demonstrate an understanding of juvenile delinquency in American Indian and Alaska Native communities and of the socioeconomic conditions that tribes face when responding to the needs of juveniles and their families. Applicants must also demonstrate an understanding of the importance of race and culture in administering justice-related services and programs. Applicants must be cognizant of intertribal relationships and must address the issues associated with providing technical assistance to American Indian tribes and Alaska Native communities whose boundaries encompass multiple jurisdictions involving local, county, State, and Federal governments. Applicants must demonstrate an understanding of tribal-local, State-local, and tribal-Federal relationships. Applicants must also demonstrate their understanding of the implications of sovereignty.

Goals and Objectives (15 points)

Applicants must provide succinct statements that demonstrate how the goals and objectives of the program will be addressed. The overall goal(s) of the program must be clearly defined and linked to the problems and needs of the target population (as described above in the ''Problems To Be Addressed'' section). The objectives must be clearly defined, measurable, obtainable, and described for each year of the 4-year program period. They should include quantifiable activities to ensure that applicants will meet the program goals. Applicants must submit plans for tracking and measuring their annual progress toward meeting each goal and objective. Special attention must be paid to the Performance Measurement section. A detailed discussion of how outcome measures will be achieved is expected.

Program Design (30 points)

Applicants must present a program design that is specific and constitutes an effective approach to meeting the goals and objectives of the program. The design must include a detailed work plan that describes specific tasks, procedures, timelines, milestones, and products to be completed. The design must indicate how program objectives will be met, how deliverables will be produced, and how both will be measured. The work plan should also include a cohesive, well-developed plan for providing information, products, and other materials to key players in the initiative, which include TYP grantees and federally recognized tribes. The design must provide protocols for assessing training and technical assistance needs and protocols to be used in the delivery and evaluation of services.

Applicants should include background data that justify the program design and implementation plan and describe a cohesive, well-thought-out plan for effectively providing knowledge and best practices to TYP grantees and American Indian tribes and Alaska Native communities. An application will be deemed competitive if it clearly identifies obstacles to achieving expected results and discusses plans for overcoming those impediments. In the interest of cost-effectiveness, OJJDP will consider recommendations for modifying and enhancing the products and services to be delivered. When such recommendations are made, justification and alternatives should be proposed.

Management and Organizational Capability (25 points)

Applicants must describe an organizational framework, a managerial structure, and a staffing approach that have the capacity to work effectively with tribes. Applicants must demonstrate their production and computer capabilities and describe how they (applicants) will meet the requirements for producing the required guides and curriculums and for reproducing program materials. Applicants must describe their knowledge of juvenile justice practices and their past involvement in working with tribes. A consultant pool of experts must be included with the résumés of staff. Assurances that these individuals will be available when the grant is awarded must be given. Résumés must reflect significant experience and expertise in curriculum design, the development of national training and technical assistance systems, juvenile justice and tribal issues, and other content areas relevant to the needs of this effort. Staff must have experience working with diverse tribes and be able to demonstrate sensitivity to variations in cultural characteristics.

Personnel working on an OJJDP-funded program must adhere to the requirements of the Office of Justice Program's *Financial Guide,* which contains the requirements that all grantees must adhere to when using Federal funds. Applicants are expected to discuss their understanding of chapter 3, ''Conflicts of Interest,'' and how they will ensure their compliance with its requirements.

Applicants must describe their organizational capability, including (1) a description of how the organization will manage an OJJDP training and technical assistance program, (2) an established history of delivering training and technical assistance at a national level, (3) a demonstrated capability to produce within a short timeframe a range of general and specific user-friendly and professional technical resource materials, and (4) a discussion of past performance working with tribes and any other involvement that demonstrates management capabilities.

Budget (15 points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, and cost effective in relation to the activities to be undertaken. Applicants must budget clearly for curriculum design and development, training and technical assistance offerings, and other costs associated with this program. Expenses for planning regional workshops and for preparing related tangible training and technical assistance resources to support the tasks of this program (*e.g.,* writing, editing, printing, and mailing curriculums and regional training announcements, registration materials, brochures, *etc.*) should be included in the budget. Expenses for participants attending training and technical assistance events will only be paid where indicated in the deliverables.

Format

The application must contain the following parts: (1) The application, (2) program summary, (3) program narrative, (4) budget and budget justification, and (5) appendixes. Each section should conform to the following specifications:

- The application must include all necessary forms provided in OJJDP's *Application Kit,* which is available through the Juvenile Justice Clearinghouse (JJC) (800–638–8736) or online at *www.ncjrs.org/pdffiles1/ojjdp/s1000480.pdf.*
- Each application must include a program summary that does not exceed 500 words.
- Each application must include a complete program narrative that does not exceed 40 pages, including charts, diagrams, and tables. The narrative should include applicants' response to the following selection criteria: Problem To Be Addressed, Goals and Objectives, Program Design, and Management and Organizational Capability.
- Each application must include a complete budget and accompanying budget justification. Applicants may choose to provide their own budget worksheet and justification, or they may use the worksheets provided in the *Application Kit.*

Applicants must include appendixes A—a program activity timeline; B—an organizational chart; C—résumés of key staff; and D—a capabilities statement.

Applications that do not include these appendixes will be disqualified. Applicants may include additional appendixes for other supporting materials.

The program summary and program narrative must be submitted on 8½-by 11-inch paper, double spaced, and printed in a 12-point font on one side of the page, with 1-inch margins on all sides. All text must be double spaced, including lists and bullets. Tables do not need to be double spaced, but they must be printed in a 12-point font and follow the 1-inch margin requirements. These requirements are necessary to maintain fair and uniform standards among all applicants. If the narrative does not conform to these standards, OJJDP will deem the application ineligible for consideration.

Award Period

This program will be funded as a cooperative agreement for 48 months in four 12-month budget periods. Funding after the initial budget period will depend on grantee performance, availability of funds, and other criteria established at the time of the initial award.

Award Amount

Up to $800,000 is available to support the award of a cooperative agreement to a single provider for the initial 12-month budget period.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, *Application for Federal Assistance,*

is 16.731. This form is included in OJJDP's *Application Kit,* which can be obtained by calling JJC at 800–638–8736 or by sending an e-mail request to *puborder@ncjrs.org.* The *Application Kit* is also available online at *www.ncjrs.org/pdffiles1/ojjdp/s1000480.pdf.*

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from the U.S. Department of Justice; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) and (2) with the funding sought by this application. For each Federal award, applicants must include the program or program title, the Federal grantor agency, the amount of the award, and a brief description of its purpose. ''Related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.,* the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or program (*e.g.,* to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice program).
- Services of some kind (*e.g.,* technical assistance, research, or evaluation) to the program or program described in the application.

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. ET on September 3, 2002.

Contact

For further information, contact Jayme S. Marshall, Program Manager, Training and Technical Assistance Division, OJJDP, 202–616–7614, or send an e-mail inquiry to *marshalj@ojp.usdoj.gov.*

Dated: July 12, 2002.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 02–18205 Filed 7–18–02; 8:45 am]

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Federal Register

Friday,
July 19, 2002

Part IV

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Program Announcement for Multisystem Decisionmaking Training and Technical Assistance Project; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1359]

Program Announcement for Multisystem Decisionmaking Training and Technical Assistance Project

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: This Program Announcement provides the background information that eligible training and technical assistance providers need to apply for funds to conduct the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) Multisystem Decisionmaking Training and Technical Assistance Project. OJJDP invites applications from public and private agencies, organizations, institutions, and others that have the necessary technical skills and demonstrated expertise to build the capacity of and transfer knowledge to Safe Start sites to establish a multisystem case analysis process that informs cross-agency policies and frontline practices. Safe Start is a program that promotes collaboration among service providers for children and families. It prevents and reduces the impact of children's exposure to violence through a comprehensive system of supports and services that effectively meets the needs of these children and their families at any point on the service continuum.

DATES: Applications must be received by August 19, 2002.

Application Kit: Interested applicants can obtain the *OJJDP Application Kit* by calling the Juvenile Justice Clearinghouse at 800–638–8736, by sending an e-mail request to *puborder@ncjrs.org,* or through fax-on-demand. (For fax-on-demand, call 800–638–8736, select option 1, then select option 2 and enter the following four-digit numbers: 9119, 9120, 9121, and 9122. Application kits will be faxed in four sections because of the number of pages.) The *Application Kit* is also available online at *www.ncjrs.org/pdffiles1/ojjdp/sl000480.pdf.*

Delivery Instructions: All applicants must submit the original application (signed in blue ink) and five copies. Applications should be unbound and fastened by a binder clip in the top left-hand corner.

OJJDP strongly recommends that applicants number each page of the application. To ensure that applications are received by the due date, applicants should use a mail service that documents the date of receipt. Because OJJDP anticipates sending applicants written notification of application receipt approximately 4 weeks after the solicitation closing date, applicants are encouraged to use a traceable shipping method. Faxed or e-mailed applications will not be accepted. Postmark dates will not be accepted as proof of meeting the deadline. Applications received after August 19, 2002, will be deemed late and may not be accepted. The closing date and time apply to all applications. To ensure prompt delivery, please adhere to the following guidelines:

Applications sent by U.S. mail: Use registered mail to send applications to the following address: Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850. In the lower left-hand corner of the envelope, clearly write ''Multisystem Decisionmaking Training and Technical Assistance Project.''

Applications sent by overnight delivery service: Allow at least 48 hours for delivery. Send applications to the following address: Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 800–638–8736 (phone number required by some carriers). In the lower left-hand corner of the envelope, clearly write ''Multisystem Decisionmaking Training and Technical Assistance Project.''

Applications delivered by hand: Deliver by August 19, 2002, to the Juvenile Justice Resource Center, 2277 Research Boulevard, Rockville, MD 20850; 301–519–5535. Hand deliveries will be accepted daily between 8:30 a.m. and 5 p.m. EST, excluding Saturdays, Sundays, and Federal holidays. Entrance to the resource center requires proper photo identification.

FOR FURTHER INFORMATION, CONTACT: Kristen Kracke, Program Manager, Child Protection Division, Office of Juvenile Justice and Delinquency Prevention, 202–616–3649. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of the Multisystem Decisionmaking Training and Technical Assistance (MSDMTTA) Project is to build capacity in communities, initially and primarily Safe Start initiative communities, to collaboratively conduct a comprehensive, data-driven, decisionmaking model for improving services and systems for agencies serving children exposed to violence and their families. The key agencies supported in this model are those systems that work with children who have been victims of maltreatment or who have witnessed adult violence in the home, the perpetrators of their victimization, and their families. The agencies include law enforcement, courts, domestic violence service providers, child protective services, mental health providers, and medical systems.

This purpose will be carried out by providing direct, intensive training and technical assistance (TTA) to help communities conduct multisystem case analysis and develop structured decisionmaking tools to inform their systems improvement.

Background

Children who have been maltreated or who have witnessed violence are often brought into a service delivery system that does not respond effectively and efficiently to the needs of children and families. This ineffectiveness results in negative outcomes for children and a waste of limited resources to help families in need. For example, the news media highlights traumatic events that occur to children every day that might have been prevented with appropriate attention to their problems. Children are being ''lost'' as cases are transferred between law enforcement, prosecution, child protection services, and other agencies. Difficult decisions are made for children every day as child protection workers decide the level of risk for each child. Sometimes these decisions are wrong; for example, a child dies in the home at the hands of an abuser after the child protection agency has closed a case of reported abuse, or, conversely, a child is removed from the home and family ties are severed when family support services might have proven effective. To help workers make these difficult decisions consistently and accurately, their high-stakes decisionmaking must be supported with structured, reliable tools at key decision points. In addition, agencies need better information so they can allocate their resources to best meet the needs of children.

Communities need support to analyze their child-serving systems across multiple agencies to gain knowledge about outcomes for the children they serve and to identify gaps and inefficiencies. Furthermore, communities need help in using this analysis to plan and develop tools to assist child-serving workers in making the best decisions possible for children

and families. Using structured tools, which increase the consistency and validity of decisionmaking, ensures that children will receive the right level or intensity of services. Child protection workers will be able to assess the level of risk posed to each child and determine the appropriate level of support needed. As a result, agencies can provide the appropriate services to each child when needed. Agencies also can track their cases and staff caseloads more effectively and have necessary data to inform the overall planning for agency resources. Cases can be handled across agencies without being ''lost in the shuffle'' and agencies can determine together how best to maximize limited resources on behalf of the families they serve.

Communities using elements of a multisystem decisionmaking (MSDM) approach have learned more about their own systems and have been able to set targeted goals for their collaborative work. They have established some of the following goals and objectives:

- More serious child abuse and neglect cases will be criminally charged.
- More children will remain safe from further abuse—subsequent harm to children will be reduced.
- More court intake cases will reach dispositional findings within 100 days.
- Average caseload sizes will be reduced to meet national standards.
- Case decisions will be made more consistently.
- Families at highest risk will receive more targeted resources.
- Agency and cross-agency planning will be informed by more case-level data.

System improvement is critically needed because research and statistics demonstrate that children are victims of and witnesses to violence every day; the effects of this trauma can be lifelong if systems and supports do not respond immediately and effectively.

Throughout America, Millions of Children Are Exposed to Violence at Home, in Their Neighborhoods, and in Their Schools

A 1994 study (Taylor *et al.*) found that 1 of every 10 children treated in the Boston City Hospital primary care clinic had witnessed a shooting or stabbing before age 6. Almost all (94 percent) of the children had been exposed to multiple forms of violence, and half of them had been exposed to violence within the past month. Half of these children witnessed such violence in the home and half witnessed it in the streets. The average age of these children was 2.7 years.

Studies estimate that each year between 3.3 million (Carlson, 1984) and 10 million (Straus, 1991) children in the United States witness violence in the home, including behaviors that range from insults to fatal assaults with guns and knives. Family violence encompasses violence between siblings. According to one study, 77 percent of children under age 9 had recently been violent toward a sibling (Steinmetz, 1977). Another study found that 80 percent of children committed violent acts toward their siblings every year (Straus, Gelles, and Steinmetz, 1980).

Young Children Are Particularly at Risk of and Affected by Violence and Exposure to Violence

In a comparison study of census data from five cities, domestic violence was shown to have occurred disproportionately in homes with children under age 5. Children in this age group also were more likely than older children to witness multiple acts of domestic violence associated with substance abuse (Fantuzzo *et al.*, 1997). Research indicates that younger children are more vulnerable to victimization because of their age. Children's exposure to violence and maltreatment is significantly associated with increased depression, anxiety, posttraumatic stress, anger, increased alcohol and drug abuse, and lower academic achievement (Zero to Three, 1994). Exposure to violence shapes how children remember, learn, and feel. Numerous studies cite the connection between abuse and neglect of a child and later development of violent and delinquent behavior (Thornberry, 1994; Wright and Wright, 1994; Widom, 1992). Children who experience violence either as victims or as witnesses are at increased risk of becoming violent themselves. This danger is greatest for the youngest children, who depend almost completely on their parents and other caregivers to protect them from trauma.

Children Exposed to Violence Do Not Receive Adequate Intervention or Treatment To Address Harmful Aftereffects

According to the National Advisory Board on Child Abuse and Neglect (U.S. Department of Health and Human Services, 1995), more than 90 percent of children who were abused or neglected did not get the services they needed. Rarely are such children provided counseling or help in dealing with the traumatic effects of maltreatment. Also, too often, referrals to victims services made during investigations of domestic violence and other violent crimes are limited to the adult victim; adult and child victims and witnesses do not usually receive necessary services.

There is broad consensus that current juvenile justice practice is often ineffective. Services are crisis oriented and divide children and families into distinct, often arbitrary, categories. Communication among service providers is often poor, resulting in an inability to treat families holistically, meet their needs, and develop comprehensive solutions (Melaville and Blank, 1993).

Toward a Coordinated Professional Response

As the juvenile justice field continues to recognize prevention as central to its mission and to focus its efforts on those factors that place children at risk for delinquent or criminal activity, practitioners are increasingly aware that the segmentation and fragmentation of community service delivery systems are serious obstacles to effective treatment for at-risk children (Gerry and Morrill, 1990). In addition, practitioners and policymakers are beginning to realize the effectiveness of engaging communities in addressing problems related to delinquency and crime.

The Federal Government has a role not only in reorganizing and restructuring its own activities to promote and facilitate such reorganization on the community level, but also in stimulating improvement of community-based systems by providing financial and technical assistance to communities engaged in collaborative processes (Conly and McGillis, 1996). In recent years, Federal agencies have funded several programs to promote collaboration among service providers for children and families. One of these initiatives, Safe Start, prevents and reduces the impact of children's exposure to violence through a comprehensive system of supports and services that effectively meets the needs of these children and their families at any point on the service continuum. To accomplish this vision, Safe Start communities comprehensively assess and redesign their current systems. Safe Start communities and other communities engaging in systems change need increased support in cross-agency case analysis and decisionmaking to provide research-based tools and processes and increased capacity building.

Goal

This project's goal is to create an MSDM model that engages key agencies collaboratively in a data-driven process for assessing, identifying, implementing,

and monitoring critical systems improvements and decision points at the cross-agency, agency, and point of service/individual case levels.

Objectives

The project will develop and implement a TTA methodology to build capacity in collaborative communities, initially and primarily Safe Start sites, to achieve the above goal.

Performance Measures

To comply with the Government Performance and Results Act (GPRA), Public Law 103–62, this solicitation notifies applicants that they are required to collect and report data that measure the results of the programs/efforts implemented with this grant. To ensure the accountability of these data, for which the Office of Justice Programs is responsible, the following performance measures are provided.

For GPRA purposes, OJJDP will collect the following data from the grantee and provide a report annually. Should program expansion or a formal evaluation be undertaken in the future, data collected from the grantee will provide a crucial baseline for the MSDMTTA Project.

- Number of onsite training sessions delivered to the 14 sites implementing MSDM.
- Number of technical assistance deliveries provided to the 14 sites implementing MSDM.
- A specific count and tracking of the following products developed to transfer knowledge to and build local capacity for MSDM in each of the 14 sites: handbooks, toolkits, conferences, Web sites, and publications.
- Data documenting the grantee's ability to enhance MSDM capacity in the community through development of a tailored, structured, decisionmaking tool at the case level in each community and development of action plans to address system improvements for cross-agency policy and practice.

Program Strategy

OJJDP will competitively select one TTA provider to receive a cooperative agreement worth up to $1,472,000 for a 24-month project and budget period and to provide TTA for up to 14 sites.

The overall strategy for implementing an MSDM model involves the following:

- Using data to enhance existing practices and create new practices, policies, and procedures within and across agencies working to prevent violence against children.
- Focusing resources on interventions with the greatest likelihood of producing positive outcomes for children and families.
- Basing decisions on empirical knowledge of the issues and challenges inherent in bringing about positive change.
- Using valid assessment and screening tools.
- Integrating prevention, intervention, and accountability measures.
- Working across relevant agencies.

The TTA should help these collaborative communities build local capacities in the following areas:

- Gathering and analyzing cohort data to identify possible areas for improvement of coordinated responses.
- Improving the consistency and validity of decisions through a guided decisionmaking process at both the individual case level, agency level, and systems level.
- Targeting resources more appropriately and effectively to children and families.
- Developing a set of community outcomes based on collaborative data analysis and tracking progress.
- Using the aggregation of case information to guide systems' practices for continuous quality improvement.
- Formulating clear policies and protocols within and between involved systems based on a data-driven process.
- Improving the efficiency and effectiveness of all involved systems.

Project Phases

The TTA project must include the following activities, which may be divided into phases as appropriate:

- Development of a conceptual framework for the model.
- Phased implementation of TTA in sites; this may involve site exploration and selection. (Note: Safe Start sites' use of TTA will be voluntary; therefore, a mutual exploratory process will assess model and TTA methodology ''fit'' as well as readiness of site.)
- Site consultation and readiness building.
- Customized site TTA plan development.
- Implementation of customized site-specific TTA (may be phased).
- Local capacity building.
- Knowledge transfer.
- National dissemination.
- Project evaluation.

Activities and Services

Intensive TTA will be needed to provide a sufficient level of capacity building. This will involve consultation and onsite support in a variety of cross-agency or multisystem activities, including but not limited to developing tools for the model and assisting each community in the following activities: customizing tools; developing a data analysis plan; selecting the research question for the case review and identifying samples and methodologies; choosing, training, and supervising case reviewers from within the collaborating agencies; building a database and inputting data; analyzing, presenting, and discussing implications of the data in cross-agency collaborative meetings; drafting findings and developing change strategies; and developing action plans to address systems improvement needs. In addition to supporting the above activities for cross-agency and multisystem analysis, TTA activities will need to help collaborating agencies adopt and customize tools for structuring individual case decisions based on analysis and assessment data within agencies. Such tasks will build on the analytical work referenced above and also will include determining policies and procedures; collecting and entering assessment data (for use in management reports) to effectively monitor services delivery and evaluate case outcomes; training supervisors and administrators in the use of management reports as tools for improving operations and outcomes for children; and preparing management reports to guide decisions related to resource development, effectiveness, and staffing.

As a TTA resource for communities interested in implementing MSDM, initially and primarily in Safe Start sites, the selected applicant will be required to tailor the TTA approach to the local and national contexts. For these Safe Start sites, the selected applicant will be required to collaborate and communicate closely with local and national project staff, local and national evaluators, and especially the lead national TTA coordinator for Safe Start.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, and individuals experienced in TTA. Private, for-profit organizations must agree to waive any profit or fee. Joint applications from two or more eligible applicants are welcome; however, one applicant must be clearly indicated as the primary applicant (for correspondence, award, and management purposes) and the others indicated as coapplicants. To be eligible for consideration, applicants must strictly adhere to the guidelines for preparing and submitting applications regarding page length, layout, and submission deadlines.

Applicants must have demonstrated expertise in the areas of child maltreatment and domestic violence and also knowledge of the child protection, court, law enforcement, domestic violence, medical, and mental health systems and other related systems. Applicants must also demonstrate functional expertise in the provision of TTA, systems improvement, data analysis including case review, case flow, research, tool validity and reliability, collaboration, and organizational change.

Selection Criteria

Applicants must submit a project narrative that describes their overall approach to the MSDMTTA project, including a description of the conceptual and organizational framework for their approach and a detailed strategy.

All applicants will be evaluated and rated by a peer review panel according to the selection criteria outlined below. Applicants must use the selection criteria headings for their program narrative and present information in the order shown. The selection criteria will be used to determine the extent of each applicant's responsiveness to program application requirements, compliance with eligibility requirements, organizational capability, and thoroughness and innovation in responding to strategic project implementation issues. Staff and peer reviewer recommendations are advisory only. The OJJDP Administrator will make the final award decision, taking into consideration geographic diversity and other issues.

Problem(s) To Be Addressed (10 Points)

Applicants must describe the effect of children's exposure to violence, the need to improve outcomes for children exposed to violence and their families, and the need to improve services and systems for these children. A discussion of how these systems improvements can directly improve outcomes for children and families should also be included.

Goals and Objectives (10 Points)

Applicants must outline the vision for an MSDM model and describe how the agencies and systems involved will operate when the model is implemented. The vision must include a clear discussion of the proposed project goals and objectives as they logically relate to an MSDM model. Applicants also must outline specific goals and objectives for TTA to support implementation of the model and build local capacity. Objectives must be quantifiable, measurable, and attainable within the project timeframe (24 months).

Project Design (25 Points)

Applicants must describe their strategy for implementing MSDM in 14 communities, initially and primarily in Safe Start sites, and for providing TTA support and building local capacity. The project design should describe the MSDM model and its framework, method, and tools; the TTA approach embedded within the model to help the 14 communities successfully implement it; and a plan for establishing transfer of knowledge and broad dissemination in the form of toolkits, handbooks, media outlets, and national training (beyond the initial 14 communities). Applicants should clearly outline and specify project deliverables.

Management and Organizational Capability (40 Points)

Section One—Management (20 Points). Applicants must outline the proposed staffing structure and management plan for the project, including at least one full-time, high-level, experienced lead coordinator. Applicants are to identify the roles and responsibilities of each involved agency, committee board, or other entity and explain its relationship to the overall effort. In addition, applicants must name and describe the core management team and the capabilities and experience of all staff and consultants who will participate on the management team or play lead roles. Include resumes of key personnel in the appendixes and indicate the percentage of time required for each named staff member or consultant and the supervision or management plan. As a part of this management plan, applicants must describe the management practices that will be used to evaluate staff and program progress and to ensure corrective action. (*See* competencies described in the ''Eligibility Requirements'' section.)

Section Two—Organizational Capability (20 points). Applicants must provide a brief overview of the lead agency's knowledge of and experience with children, youth, and family issues, particularly as they relate to preventing and reducing the effect of exposure to violence. Applicants must have demonstrated expertise in the areas of child maltreatment and domestic violence and also knowledge of the child protection, court, law enforcement, domestic violence, medical, and mental health systems and other related systems. In addition, applicants must demonstrate detailed and specific experience in provision of TTA; systems improvement, data analysis including case review, case flow, research, tool validity and reliability, collaboration, and organizational change. The applicant should demonstrate experience that is consistent with the size and scope of the project. Applicants must have the ability and willingness to coordinate and collaborate with OJJDP, the Safe Start initiative, and all Safe Start relevant partners, especially the national Safe Start lead TTA provider. Furthermore, applicants should demonstrate a willingness and an ability to transfer knowledge to and build local capacity of communities to a level at which a consultant or consulting firm/TTA provider is no longer needed.

Budget (15 Points)

Applicants must provide a detailed budget and supporting narrative that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be performed. It must also indicate the extent to which resources have been committed for the 24 months of the budget and project period.

Appendixes

Supplemental material can be included as an appendix to demonstrate any of the above selection criteria, including but not limited to staff resumes and MSDM tools.

Format

The narrative portion of the application must not exceed 50 pages (excluding forms, assurances, and appendixes) and must be submitted on 8½- by 11-inch paper and double spaced on one side of the paper in a standard 12-point font, with each page numbered sequentially. The double spacing requirement applies to all parts of the program narrative and project abstract, including any lists, tables, bulleted items, or quotations. These standards are necessary to maintain fair and uniform consideration among all applicants. If the narrative and appendixes do not conform to these standards, OJJDP will deem the application ineligible for consideration.

Award Period

The MSDMTTA Project will be funded in the form of a cooperative agreement for a 24-month budget and project period.

Award Amount

Applicants may apply for up to $1,472,000 for the 24-month budget and project period as a one-time award.

Catalog of Federal Domestic Assistance (CFDA) Number and OJJDP Application Kit

For this program, the CFDA number, which is required on Standard Form 424, Application for Federal Assistance, is 16.730. This form is included in the *OJJDP Application Kit,* which can be obtained by calling the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to *puborder@ncjrs.org.* The *Application Kit* is also available online at *ncjrs.org/pdffiles1/ojjdp/s1000480.pdf.*

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from the U.S. Department of Justice; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) and (2) with the funding sought by this application. For each Federal award listed, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of the purpose. The term ''related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.,* the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of this program or project (*e.g.,* to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).
- Services of some kind (*e.g.,* technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

Use registered mail to send applications to the following address: Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. In the lower left-hand corner of the envelope, clearly write ''Multisystem Decisionmaking Training and Technical Assistance Project.''

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by August 19, 2002.

Contacts

For further information, contact Kristen Kracke, Program Manager, Child Protection Division, OJJDP, 202–616–3649, or send an e-mail inquiry to *krackek@ojp.usdoj.gov.* Include a contact name and phone number in the message.

Applicants may also contact the following:

Juvenile Justice Clearinghouse, 800–638–8736, *ojjdp.ncjrs.org.*

National Clearinghouse on Child Abuse and Neglect, 800–394–3366, *calib.com/nccanch.*

National Center for Children Exposed to Violence, 877–49–NCCEV, *nccev.org.*

Suggested Readings

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Dated: July 12, 2002.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Federal Register

Friday,
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Part V

The President

Proclamation 7577—Captive Nations Week, 2002

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Presidential Documents

Title 3—

The President

Proclamation 7577 of July 17, 2002

Captive Nations Week, 2002

By the President of the United States of America

A Proclamation

The United States is proud to stand on the side of brave people everywhere who seek the same freedoms upon which our Nation was founded. Each year, during Captive Nations Week, we reaffirm our determination to work for freedom around the globe. Created against the backdrop of the Cold War, the importance and power of Captive Nations Week continues to resonate in today's world.

In too many corners of the earth, freedom and independence are the victims of dictators driven by hatred, fear, designs of ethnic superiority, religious intolerance, and xenophobia. These despots deny their citizens the liberty and justice that is the birthright of all people. Some governments, such as those in North Korea, Iraq, and Iran, starve their people, take away their voices, traffic in terror, and threaten the world with weapons of mass destruction. In many other places, from Burma to Belarus, Cuba and Zimbabwe, people are denied the most basic rights to speak in freedom, and their daily lives are haunted by the fear of the secret police.

This week, America reaffirms our solidarity with and support for people living under conditions of servitude. They are the nonnegotiable demands of human dignity. History teaches us that when people are given a choice between freedom and tyranny, freedom will win. Recently, the world saw this in Afghanistan, where people took to the streets to celebrate the fall of their Taliban oppressors. Those in other lands seeking to unshackle themselves from dictatorship will also have America's support.

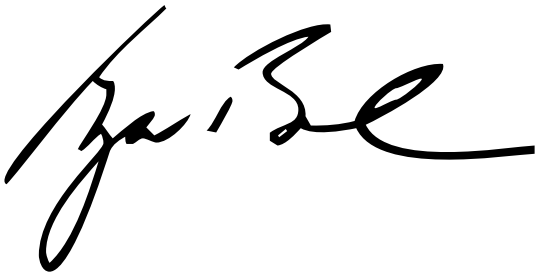
Twenty years ago, President Ronald Reagan said before the British Parliament at Westminster that ''our mission today (is) to preserve freedom as well as peace. It may not be easy to see; but I believe we live now at a turning point.'' These words were a prelude to the fall of the Berlin Wall in 1989. Today, as the events of September 11 made clear, we are at another turning point, where the world faces the prospect of dictators supplying the world's most dangerous weapons to their terrorist allies. These terrorists aspire to impose their brutal will on freedom loving people everywhere.

One of our greatest strengths in this struggle against a world of fear, chaos, and captivity is our commitment to standing alongside people everywhere determined to build a world of freedom, dignity, and tolerance. This week America affirms its commitment to helping those in captive nations achieve democracy.

The Congress, by Joint Resolution approved July 17, 1959, (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as ''Captive Nations Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 21 through 27, 2002, as Captive Nations Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their devotion to the aspirations of all peoples for liberty, justice, and self-determination.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of July, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 327/P.L. 107–198

Small Business Paperwork Relief Act of 2002 (June 28, 2002; 116 Stat. 729)

S. 2578/P.L. 107–199

To amend title 31 of the United States Code to increase the public debt limit. (June 28, 2002; 116 Stat. 734)

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